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Letter dated 25 January 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council

On behalf of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo and in accordance with paragraph 6 of resolution 1552 (2004), I have the honour to submit herewith the report of the Group of Experts on the Democratic Republic of the Congo.

In this connection, I would appreciate it if the present letter, together with its enclosure, were brought to the attention of the members of the Security Council and issued as a document of the Council.

(*Signed*) Abdallah **Baali**
Chairman
Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo

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Letter dated 4 January 2005 from the Group of Experts on the Democratic Republic of the Congo addressed to the Chairman of the Security Council Committee established pursuant to resolution 1533 (2004)

The Group of Experts on the Democratic Republic of the Congo has the honour to transmit herewith the report of the Group of Experts, in accordance with paragraph 6 of Security Council resolution 1552 (2004) of 27 July 2004.

(*Signed*) Kathi Lynn **Austin**

(*Signed*) Jean-Luc **Gallet**

(*Signed*) Léon-Pascal **Seudie**

(*Signed*) Moise **Sow**

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Abbreviations

AGA	AngloGold Ashanti
ANC	Armée nationale congolaise
BAL	Butembo Airlines
CAA	Civil Aviation Authority
CAGL	Compagnie Aérienne des Grands Lacs
CNDD/FDD	Conseil national pour la défense de la démocratie/Forces pour la défense de la démocratie
FAB	Forces armées burundaises
FAC	Forces armées congolaises
FAPC/UCPD	Forces armées du peuple congolais/Union de Congolais pour la paix et la démocratie
FARDC	Forces armées de la République Démocratique du Congo
FDLR	Forces démocratiques de libération du Rwanda
FNI	Front nationaliste et intégrationniste
FNL	Forces nationals de libération
FPDC	Forces populaires pour la démocratie au Congo
GLBC	Great Lakes Business Company
ICAO	International Civil Aviation Organization
MLC	Mouvement de libération du Congo
MONUC	United Nations Organization Mission in the Democratic Republic of the Congo
MPC	Mining Processing Congo
ONUB	United Nations Operation in Burundi
PAC	Peace Air Company
PUSIC	Parti pour l'unité et la sauvegarde de l'intégrité du Congo
RCD	Rassemblement congolais pour la démocratie
RDF	Rwandan Defence Forces
RSA	Régie des services aéronautiques
RVA	Régie des voies aériennes
UNHCR	Office of the United Nations High Commissioner for Refugees
UPC	Union des patriotes congolais
UPDF	Uganda People's Defence Forces

I. Introduction

1. Pursuant to Security Council resolution 1493 (2003) of 28 July 2003, an arms embargo was imposed, for an initial period of 12 months, in which all States, including the Democratic Republic of the Congo, were requested to prevent the direct or indirect supply, sale or transfer of arms and any related material and the provision of any assistance, advice or training related to military activities to all foreign and Congolese armed groups and militias operating in the provinces of North and South Kivu and in the Ituri District and to groups not party to the Global and All-Inclusive Agreement on the Transition, in the Democratic Republic of the Congo.

2. Exemptions were granted for supplies for the United Nations Organization Mission in the Democratic Republic of the Congo and the integrated Congolese national army and police forces as well as for non-lethal material for humanitarian or protective use and related assistance and training, with advance notification of the Secretary-General through his Special Representative.

3. In its resolution 1552 (2004), the Security Council renewed the arms embargo until 31 July 2005 in view of the failure by the parties to comply with the provisions of resolution 1493 (2003).

4. In paragraph 5 of its resolution 1552 (2004), the Security Council renewed, for a period expiring on 31 January 2005, the mandate of the Group of Experts initially established pursuant to resolution 1533 (2004). The Group continues to be guided by the three-tiered approach outlined by the Secretary-General in his fourteenth report on MONUC (S/2003/1098).

5. The mandate of the Group, as set out in paragraph 10 of Security Council resolution 1533 (2004), is:

(a) To examine and analyse information gathered by MONUC in the context of its monitoring mandate;

(b) To gather and analyse all relevant information in the Democratic Republic of the Congo, countries of the region and, as necessary, in other countries, in cooperation with the Governments of those countries, on flows of arms and related materiel, as well as networks operating in violation of the measures imposed in paragraph 20 of resolution 1493 (2003);

(c) To consider and recommend, where appropriate, ways of improving the capabilities of States interested, in particular those of the region, to ensure that the measures imposed by paragraph 20 of resolution 1493 (2003) are effectively implemented;

(d) To report to the Council, through the Committee established by the Security Council established by resolution 1533 (2004), on the implementation of the measures imposed in paragraph 20 of resolution 1493 (2003), with recommendations in that regard;

(e) To keep the Committee frequently updated on its activities;

(f) To exchange with MONUC, as appropriate, information that might be of use in the fulfilment of its monitoring mandate;

(g) To provide the Committee in its reports with a list, with supporting evidence, of those found to have violated the measures imposed in paragraph 20 of resolution 1493 (2003) and those found to have supported them in such activities for possible future measures by the Council.

6. In his letter dated 21 September 2004 (S/2004/750), the Secretary-General notified the President of the Security Council that the Group of Experts consisted of Kathi Lynn Austin, arms-trafficking expert (United States of America), Jean-Luc Gallet, customs expert (France), Léon-Pascal Seudie, police expert (Cameroon) and Moise Sow, air navigation expert (Senegal). Two consultants, William Church and Christian Dietrich, assisted the Group, which was further assisted by a political affairs officer.

7. The Group is grateful for the support received from, and values its cooperation with MONUC, both inside the Democratic Republic of the Congo and in neighbouring countries, and wishes in particular to thank the Special Representative of the Secretary-General, William Lacy Swing. The information received from MONUC, especially from its offices in the eastern part of the Democratic Republic of the Congo, as well as the Mission's logistical support, have been invaluable. The Group is particularly satisfied with the assistance it received from the MONUC Kivu Brigade during its airport inspection operations in Goma and Bukavu. The Group was also greatly assisted by the United Nations Operation in Burundi, in terms of both information and logistics.

II. Methodology

8. During its first mandate, the Group produced a report, dated 15 July 2004 (S/2004/551), which focused largely on inherent structural deficiencies and lack of State capacity, rendering the regional environment favourable for the illicit trafficking of arms to the Democratic Republic of the Congo. It drew a substantial portion of its information from MONUC and opted to investigate specific cases and incidents illustrating complicity by neighbouring Governments and individual members of the Transitional Government of the Democratic Republic of the Congo. Given the time constraints, cases were deferred for further investigation pending the renewal of the arms embargo by 31 July 2004. During its second mandate, the Group was able to draw from previous findings and conduct more detailed investigations into violations of the arms embargo, in particular by focusing on embargoed parties and other recipients as well as the political and military networks aiding and abetting them.

9. The methodology adopted by the Group in the present report is a continuation of that used in its first report. Given the three months allotted to conduct field investigations, the Group chose to maintain its balanced and representative case study approach and to target specific border areas in the eastern part of the Democratic Republic of the Congo, in particular in the Ituri District and North and South Kivu Provinces. Case studies were selected on the basis of the reliability of the sources and the existence of corroborative documentation or first-hand observation. Several cases were not satisfactorily concluded and have therefore been omitted from the report pending possible future investigation.

10. For the sake of efficiency, the Group worked in two teams from the outset, which allowed it to meet with more contacts so as to collect a broader range of data

and cover more ground. The teams regrouped at intervals to consolidate information, lend assistance in areas of expertise and meet formally with the Governments of Uganda and Rwanda.

11. In addition to time limitations, United Nations security restrictions and logistical constraints have continued to shape the geographical scope of the Group's investigations. For those reasons, the Group was unable to conduct two key field assessments, one along the border between the Democratic Republic of the Congo and the Sudan and the other along the border of the Democratic Republic of the Congo with Burundi, the United Republic of Tanzania and Zambia, where it wished to assess specific coastal areas around Lake Tanganyika.

12. As during its first mandate, the Group has used its best judgement in evaluating the information received and has striven to meet the highest standard of evidence available to a non-judicial body. It continues to consider as "beyond a reasonable doubt" information obtained from or volunteered by at least three credible and independent primary sources or indeed two such sources in addition to expert on-site observation. Furthermore, the Group has spent the overwhelming majority of its time in the field obtaining information from primary sources, making first-hand observations and assessments and interacting, at its own initiative, with relevant embargoed parties, including leaders of FAPC/UCPD, FPDC, FNI, PUSIC and UPC in Ituri, as well as FDLR in the Kivus.

13. The Group has greatly benefited from the development of a new database management system, which is based on the following three-pronged approach: the introduction of a source code and information rating system to allow the Group to confidentially track sources and to judge the quality of the information collected, as recommended in the Stockholm Process on the Implementation of Targeted Sanctions; the building of a document-tracking system with a unique identifier for each document, which is subsequently maintained in the Group's archive; and the establishment of a real-time database of key data elements that can be used as an information indexing system to facilitate the retrieval of data or to search for related data elements.

14. Upon resuming its activities, the Group met with a number of government delegations in New York and visited a number of major capitals, including Washington, D.C., Paris, Brussels, The Hague, London and Pretoria, with a view to raising awareness of the arms embargo and violations thereof, exchanging views on policy issues regarding the Group's mandate and advocating for the implementation of the recommendations made by the Group in its first report. The Group is grateful for the invaluable feedback and support received in the United States of America and Europe.

15. While preferring proactive discourse with Governments in the region, the Group has continued to interact with them on their terms when feasible. As such, the Group has drafted questionnaires upon request, for instance, for Rwanda, South Africa and Uganda, in lieu of conducting more fruitful exchanges of views and information through open dialogue.

16. The Group has interacted with other sanctions panels, in particular the Panel of Experts on Liberia, on civil aviation issues. This cross pollination of information has both benefited expert groups and expedited investigations in areas of mutual interest and concern.

17. In paragraph 10 (g) of its resolution 1533 (2004), the Security Council requested the Group to provide the Committee with a list of those found to have violated the arms embargo and those found to have supported them in such activities. The Group has, pursuant to its mandate, provided the Committee with its provisional list for further action by the Committee and the Security Council.

18. As discussed during its initial meeting with the sanctions committee on 8 September 2004, the Group used the time remaining between the submission of its draft report in December 2004 and the expiration of its mandate at the end of January 2005 to consolidate its findings and afford due process to individuals and companies and the right of reply to Governments.

III. Background

19. Peace and security in the Democratic Republic of the Congo continue to be marred by cyclical and at times highly publicized crises that are localized militarily but have significant repercussions on the stability of the entire transitional process. After the events of Bukavu in June 2004, the dissident Congolese forces of General Laurent Nkunda and Colonel Jules Mutebutsi were sidelined but continued to pose a potential threat. As a direct result, FARDC troops stationed outside of the eastern part of the Democratic Republic of the Congo were hastily mobilized and sent to the region without prior consultation with MONUC or clear terms of engagement. At the same time, MONUC reconfigured its own troop deployment and sent reinforcements to the Kivus, thus negatively affecting priorities elsewhere, such as the disarmament and community reintegration programme in Ituri. Heightened instability and insecurity precipitated the extraction of MONUC military observers from sensitive areas in the eastern part of the country, reducing the Mission's ability to monitor the situation in remote yet strategic areas and leading to a dearth of information useful for monitoring the arms embargo. A period of palpable tension between the eighth and tenth military regions ensued from the Bukavu crisis, leading to skirmishes, significant internal displacement, inter-communal violence and further ethnic polarization.

20. Within this context, the arms embargo imposed by the Security Council on the Democratic Republic of the Congo was renewed for one year, until 31 July 2005, by Council resolution 1552 (2004). The Group's mandate was likewise extended in the same resolution until 31 January 2005. The renewal of the arms embargo coincided with intense discussions on the new mandate of MONUC, resulting in the adoption by the Council of resolution 1565 (2004) on 1 October 2004. The Group welcomed the adoption of the resolution, which called upon MONUC to, inter alia, support operations to disarm foreign combatants led by FARDC and to establish operational links with the United Nations Operation in Burundi in an effort to monitor and discourage cross-border movements of combatants between the two countries. In the same resolution, the Council reiterated the role of MONUC in seizing, collecting and disposing of arms and related materiel as appropriate.

21. Despite the timely increase in its military personnel, the Group notes that MONUC has received 7,200 fewer troops than requested. This will affect the Mission's ability to respond aptly to the many challenges it faces, in particular that of monitoring the arms embargo. Further, logistical considerations have been compounded by inadequacies and delays in the deployment of additional troops and force enablers, in particular in the Kivus and Ituri.

22. The cessation of overt hostilities in Bukavu since June and a momentary simmering down of tensions along the eastern border of the Democratic Republic of the Congo in July notwithstanding, the massacre at Gatumba (Burundi) perpetrated in August 2004 and the temporary suspension of participation in the Transitional Government by RCD, requiring hasty intervention by the President of South Africa, Thabo Mbeki, are potent reminders of the fragility of peace in the Great Lakes region of Africa. The security situation in the eastern part of the Democratic Republic of the Congo remains tumultuous at best.

23. The transitional process in the Democratic Republic of the Congo, which should culminate in the holding of free and fair elections in June 2005, continues to lag in areas of particular interest to the Group, including military integration, faltering processes of disarmament and community reintegration and of disarmament, demobilization and reinsertion, a contested disarmament, demobilization, repatriation, reintegration and resettlement programme, delays in rendering the Supreme Defence Council functional, the promulgation of amnesty laws and the extension of State authority throughout the Ituri District and the Kivu provinces.

24. The most promising advances are multilateral efforts aimed at consolidating peace and good-neighbourliness in the region such as the African Union summit meeting (July 2004), the International Conference on the Great Lakes Region (November 2004) and the Security Council's visit to Rwanda and the Democratic Republic of the Congo (November 2004). The United States-brokered tripartite agreement, signed on 26 October 2004 by the Democratic Republic of the Congo, Rwanda and Uganda, and the operationalization of the joint verification mechanism signed by the Democratic Republic of the Congo and Rwanda (September 2004), echoing a similar mechanism set up between the Democratic Republic of the Congo and Uganda in May 2004, are other positive developments initiated and supported by members of the international community.

25. The recent and repeated threats made by the President of Rwanda that RDF would conduct "surgical strikes" against FDLR positions in the Democratic Republic of the Congo constitute a major setback in the quest for regional peace. Whether the threat is real or perceived, Kinshasa has sent additional FARDC soldiers to North Kivu who have been drawn into hostilities with rebellious ex-ANC troops, leading to civilian casualties and one of the largest population displacements since the inception of the Transitional Government. These heightened tensions along the eastern border of the Democratic Republic of the Congo with Rwanda and, to a lesser extent, with Uganda, are in turn conducive to the perpetuation of violations of the arms embargo and serve to further jeopardize the long-overdue process of successful army integration, a fundamental requirement for stabilizing the entire Democratic Republic of the Congo.

IV. Scope of the problem

A. Clarification of the arms embargo

26. In the eastern part of the Democratic Republic of the Congo, many areas suffer from the absence of State authority and hence the extension of law and order. This vacuum permits armed groups and militias in the Ituri District as well as political networks of interlinked commercial and military interests in the Kivu provinces to

exercise control over their respective domains. Even in areas where a semblance of homage is paid to the Transitional Government in Kinshasa, local political and military actors sporadically flex their military muscle, threaten to destabilize the political process or support allied foreign or proxy forces to hold Kinshasa at bay. The dearth of State controls applies to the security forces as well as the civilian bureaucracy. In many areas, troops, in theory under the command of the *État-major du renseignement militaire* in Kinshasa, follow local orders and act in accordance with their own vested loyalties and interests.

27. In other areas, seemingly more under the control of the Transitional Government, key political and military leaders of the parties that are signatories to the Global and All-Inclusive Agreement on the Transition continue to exert independent control over fiefdoms and sectors of the economy, issue orders to troops loyal to them and execute decisions related to the procurement, stockpiling, movement and distribution of weapons, which are outside the unified chain of command.

28. These political and military realities have an impact on the effectiveness of the arms embargo. The Group found that, given such developments, the terms of the arms embargo referred to in resolution 1493 (2003) are subject to a variety of interpretations.

29. For instance, is it a violation of the embargo when a military region commander, in theory under the authority of the *État-major* in Kinshasa, acquires more than 300 military uniforms outside the purview of the integrated army? Similarly, could a provincial governor who is affiliated with a party that is a signatory of the Global and All-Inclusive Agreement but who distributes weapons to civilians in the embargoed region of North Kivu to build his own armed constituency be considered to be in violation of the embargo? Could a company that enters into a partnership with an armed group for the express purpose of monopolizing trade and sharing mutual profits be considered to be in violation for assisting an embargoed party? Does the leader of an armed group cease to become a target of the arms embargo once he has officially been appointed to serve in the integrated army even though he continues to operate outside of its chain of command? Is it a violation if weapons are imported into other areas of the Democratic Republic of the Congo without proper notification of the unified army or Transitional Government structures if it is known that they may be subject to onward transfer to the embargoed region?

30. During the discussions the Group had with the sanctions committee at the end of its first mandate in July 2004 and during its initial briefing with the Committee on 8 September 2004, the Group encouraged the Committee to reappraise the geographic scope of the embargo as well as its targets. In Security Council resolution 1552 (2004), the Council expressed its intention to modify or remove provisions pertaining to paragraphs 20 to 22 of resolution 1493 (2003) and all provisions of resolution 1533 (2004) if appropriate, and decided to review those provisions periodically, thus availing itself of the opportunity to revisit the terms of the embargo. Those terms still apply.

31. The Group contends that the monitoring mechanism would be strengthened if all weapons and related military materiel procured and imported into the Democratic Republic of the Congo were solely authorized and transacted by the *État-major*. All parties to the All-Inclusive and Global Agreement are represented in the *État-major*,

which, in principle, functions as the decision-making body of the integrated army. The *État-major* would be best served if it were guided in its decisions by advice from the Supreme Defence Council.

32. In addition, greater control over incoming deliveries of weapons and military materiel would benefit the embargo if all transfers were first delivered to Kinshasa and appropriately inventoried before being reshipped to other locations in the Democratic Republic of the Congo. Given the gravity of the security situation and in view of the land borders that the Democratic Republic of the Congo shares with nine other countries and its almost complete lack of airspace control, it is appropriate at this juncture to tighten the embargo on the Democratic Republic of the Congo. The Group is concerned about reports it has received regarding shipments of weapons to non-embargoed areas in the Democratic Republic of the Congo, such as Lubumbashi, where there is a relatively small MONUC, diplomatic and non-governmental organization presence and violence is on the rise. To those ends, the embargo should apply to the entire territory of the Democratic Republic of the Congo, with the exception of the *État-major*, as stated above, as well as for MONUC and supplies of non-lethal material for humanitarian or protective use as noted in resolution 1493 (2003). The Group met with the President's office in Kinshasa, which committed in principle to this elucidation of the arms embargo as it did not impinge on the sovereignty of the Democratic Republic of the Congo or its right to acquire weapons for its own national defence.

B. Overview

33. In the process of investigating specific instances of weapons and military materiel delivered to embargoed parties or embargoed territory, the Group has accumulated information and documentation pertaining to the means and methods utilized by leaders of armed groups, foreign armed groups and networks operating outside of the Transitional Government and integrated military structures to sustain their military apparatus.

34. In line with paragraph 18 of resolution 1493 (2003), in which the Security Council demanded that all States ensure that no direct or indirect assistance, especially military or financial assistance, is given to the movements and armed groups present in the Democratic Republic of the Congo, the Group has construed as a violation of the arms embargo any form of commercial, financial or logistical support that contributes intentionally to maintaining the military capability of such embargoed parties.

35. Within Ituri and the Kivus, local politicians and warlords maintain their troops, security apparatus and constituencies outside the control of the Transitional Government through the steady income generated by transnational mercantile networks and border revenue as well as by controlling trade routes, markets, commodities and natural resources inside the Democratic Republic of the Congo. Integral to these networks are the political and economic interests of officials and businessmen from neighbouring States, the latter aiding and abetting violations of the embargo. Controlling lesser fiefdoms, armed groups further inland generate profits from roadblocks, forced taxation and labour, as well as their smaller-scale commercial links to the same external actors. Monitoring those activities is essential for devising mechanisms to better ensure implementation of the United Nations sanctions regime.

36. The Group has found that more than a lack of State capacity, it is the intertwining of shared interests and objectives on both sides of the eastern border of the Democratic Republic of the Congo that render the arms embargo subject to abuse. To highlight the problem, the Group has opted to focus its investigations on the following three primary sectors connected to weapons supplies and logistical support: civil aviation; customs and immigration; and border commerce. Whereas specific arms deliveries are intermittent, with the Group usually receiving pertinent information after the fact, the networks that sustain these operations remain active. Not only is it more feasible to document their supporting activities, but also an understanding of how they operate provides useful guidance for making recommendations to sever the links utilized in violation of the embargo. The Group's work in the civil aviation sector exemplifies this case. While it would require an extensive MONUC presence at the major airports for effective monitoring of weapons delivered by air, reducing the number of illicit aircraft operators would decrease the means and opportunity for violations of this type.

37. Once arms or related military equipment have entered illegally into the Democratic Republic of the Congo, existing distribution channels supervised by key political and military stakeholders, acting either in their own interest or in the interest of their respective parties, enable further dissemination at the grass-roots level. Such internal distribution networks operate irrespective of the disarmament, demobilization and reinsertion campaign and the ongoing integration of the national army. At this juncture, the Group has focused on regional spoilers whose links to political actors in Kinshasa are still under investigation.

38. The internal provision of weapons, training and military sustenance to renegade FARDC units, local defence forces, proxy forces, foreign armed groups and militias further aids and abets a vicious cycle. Indeed, the presence of those armed groups is used as the excuse for defying the integration of the army and police forces and as the self-fulfilling justification for maintaining paramilitary structures. In turn, neighbouring States continue to exploit the rationale that they have the right to interfere in the internal affairs of the Democratic Republic of the Congo to safeguard their own national security interests. For instance, both Rwanda and Uganda maintain security arrangements with leaders of armed groups in the embargoed regions, under the pretext that the Democratic Republic of the Congo has so far failed to disarm rebel forces. The Group contends that more effective monitoring and enforcement of the arms embargo could go a long way towards exposing and disrupting these trends.

V. Civil aviation

A. General

39. The Group determined during its second mandate that armed groups in the Ituri District and the Kivu provinces continued to receive embargoed material by air. The aviation component of arms trafficking is especially important given the logistical difficulty of road transport in the eastern part of the Democratic Republic of the Congo and the geographic patchwork of territorial control by the various armed factions. It is more likely that arms transferred by land or lake will be intercepted than those transferred by air, as in the latter case there is often a more

direct link between supplier and recipient parties. Aircraft can also effectively link points of arms supply in neighbouring countries such as Rwanda or Uganda, or in the eastern part of the Democratic Republic of the Congo, with the military frontlines or strongholds of the armed groups, including, for instance, Walikale (North Kivu) or Mongbwalu (Ituri). As such, aircraft are used for immediate microshipments of weapons.

40. The vast number of airfields and the remoteness of many airstrips, as noted in the Group's first report, render adequate detection by the arms embargo monitoring mechanism difficult. The Group continues to receive information that armed groups are resupplied in areas under their control at secluded landing strips or via airdrops at places where it is currently unable to investigate because of United Nations security restrictions or logistical constraints. Other reports indicate that armed groups receive supplies at secondary airports at which MONUC has either an insufficient presence or no presence at all.

41. The aircraft commonly used for these arms transfers are the single-engine Antonov 2 and the twin-engine Antonov 8, Antonov 28 and Antonov 32 aircraft, which are capable of landing on poorly maintained or makeshift runways. The Group has determined that most of the aircraft involved in embargo violations are leased by commercial operators at the major airports in the eastern part of the Democratic Republic of the Congo or in Burundi, Rwanda or Uganda. The aircraft are used primarily to transport commercial goods and passengers within the Kivu provinces and Ituri District, making their dual role in transporting embargoed materiel difficult to isolate by examining traffic patterns. These commercial operators are often involved in other illicit practices, such as illegal flight diversions, the falsification of cargo manifests and the use of expired or fraudulent aircraft documentation, which enables them to operate at substandard costs and maximize their profits. As a result, the state of aviation in the eastern part of the Democratic Republic of the Congo is anarchic, with all but a few companies respecting international aviation standards and Congolese laws.

42. The Group attempted to obtain a list of all aircraft registered in the Democratic Republic of the Congo as well as relevant documentation, including registration, airworthiness certificates, insurance certificates and pilots' credentials, that air companies in the eastern part of the country claimed were in the possession of the Civil Aviation Authority in Kinshasa, as would normally be expected. The Group requested this information orally and in writing from the head of CAA in Kinshasa on 9 December 2004. He told the Group that CAA was in a "state of disarray" and did not currently have updated information, particularly on operations in the east. The Group is concerned that CAA is not sufficiently informed about aircraft that operate in the embargoed region.

43. During its second mandate, the Group noted no improvement in the regulation and control of airspace and airstrips by State authorities. Instead, the embargoed areas continue to be a haven for air transport and air cargo companies operating illicitly inside the Democratic Republic of the Congo with the endorsement of officials beholden to either Kinshasa, local authorities or foreign Governments. As long as aircraft are allowed to operate in violation of the International Civil Aviation Organization and national air transport regulations, the climate will remain propitious for the smuggling of arms and related materiel to and within the Democratic Republic of the Congo. It is within this context that the Group, in

conjunction with MONUC military personnel, carried out a comprehensive inspection at the two major airports at Goma and Bukavu in North and South Kivu respectively. This investigation was undertaken as a deterrent to put operators and officials on notice, to determine the nature and extent of violations of government and ICAO regulations and to investigate violations of the arms embargo.

B. Violations of the embargo, airspace and regulations

44. The Group visited the primary airports in the embargoed eastern region, namely those at Bunia, Beni, Butembo, Goma and Bukavu. The Group was able to obtain from those airports daily traffic sheets that covered a considerable portion of the flight movements within the embargoed region because most aircraft operating in the Kivus and Ituri were based at the larger airports. Interested in both scheduled and unscheduled flights and in examining regular patterns of activity as well as anomalies, the Group was particularly concerned about aircraft for which flight information had been falsified and that had made undeclared intermediary stops between approved departure and arrival locations. Among a myriad of cases documented by the Group, the following sufficiently represent the problem, two of which are direct violations of the arms embargo; the third exemplifies violations of Congolese air regulations.

1. Embargo violation: the supply of military uniforms

45. Without prior landing authorization, a Yakovlev (Yak) 40 plane, registered as EK-88262 and belonging to Simeron Enterprises LLC of Armenia, made an unscheduled landing at Goma airport on 14 August 2004. It was registered in the Goma RVA logbook as flying under the name of KABI International. The crew submitted contracts to the Group indicating that the plane was expected to be leased to Aerofreight Congo in Brazzaville as from 10 August 2004.

46. According to the head of the Armenian Flight Safety Inspection Department, Serob Karapetyan, the Yak 40 had been granted permission to fly from Yerevan to Kinshasa on 13 August 2004 (permission number 41008060 DUVTCNK 2004). Other stops on the flight plan included Turkey, the Syrian Arab Republic, Jordan, Egypt and the Sudan. The plane departed from Goma on the morning of 15 August for Kinshasa, where it made a technical landing and was subsequently impounded by airport authorities for invalid flight authorization. The crew was taken into custody and remained under a form of house arrest in Kinshasa when the Group interviewed the detained personnel in October 2004.

47. Besides transporting a "machine for making macaroni products" and "metallic shelving", as inscribed on the plane's quasi-cargo manifest that the crew provided to the Group, the aircraft also carried undeclared military uniforms and spare parts for Antonov aircraft. The consignment, examined by the Group, contained more than 300 light-green uniforms with an emblem stitched on the left sleeve bearing the insignia "FAC". FAC is the abbreviation of Forces armées congolaises, the former Congolese army, and the FAC insignia can still be found on uniforms of various FARDC troops.

48. The uniforms were delivered to an embargoed destination, without appropriate notification or the consent of the *État-major* in Kinshasa. In addition, the uniforms were intended for General Obedi, the Commander of the eighth military region, who

had not informed his military hierarchy at a time of heightened tensions between the eighth and tenth military regions. By acting outside of the integrated FARDC structure, General Obedi violated the arms embargo, as did Simeron, the supplier. The Group continues to investigate whether illegal operators used the name KABI International in an effort to disguise their identity.

49. Military police, acting on the order of General Obedi, supervised the offloading of the undeclared cargo consignment. The military uniforms generated controversy when their arrival was subsequently discovered by FARDC military intelligence officers working for the *État-major*. The latter acquired a few samples and subsequently transmitted them to its headquarters in Kinshasa. The rest were taken away under suspicious circumstances by FARDC troops under General Obedi's command. According to the crew, one of Simeron's representatives on the plane stayed behind with the uniforms to generate more business for the company in Goma. The crew added that another representative of Simeron, based in Goma, had information on the original order for the uniforms. When General Obedi was questioned by the Group on 16 November 2004, he indicated that his office had been the intended beneficiary of the uniforms but claimed that he had not been informed in advance and hence had stockpiled the uniforms to ease tensions around their delivery. The Group was shown the uniforms, some still in their packages, at General Obedi's headquarters in Goma.

50. The military intelligence officer who discovered that the uniforms were on board the Yak 40, Captain Désiré Ntumba, the chief of the eighth military intelligence unit, under the direct command of Kinshasa, as well as his deputy, Captain Pascal Kambere, were shot to death in Goma on 19 August 2004. A military intelligence inquiry into the matter was still pending when the Group interviewed Kinshasa authorities in October 2004, but authorities responsible for the case told the Group that the officers had most likely been killed on orders from the eighth military region command, not only because of the uniform discovery but also because they had been informed of other suspicious details about the plane.

51. The Yak 40 is owned by Simeron Enterprises, an Armenian company that plies military surplus trade, with its address listed as Rue Karmir Banaki, base 7, ville d'Abovian, Armenia. The names and identification of the responsible crew members are in the Group's archives for further reference. In an exchange of e-mail messages with the Group, Simeron's director in Armenia, A. Avetisyan, stated that the uniforms had been intended for the Luft Cargo company, that they had the Simeron Enterprises logo on the back and that the blue FAC emblem on the sleeve stood for "Federal Aviation Centre". Furthermore, in a written explanation issued by Serob Karapetyan of the Flight Safety Inspection Department of Armenia it was stated that an internal investigation had revealed that only 30 uniforms of a non-military nature were on board and that they were intended for the technical staff of Luft Cargo, with the FAC emblem designating "Federal Aviation Centre". However, the Group inspected the uniforms in Goma and determined that both statements were false.

52. Mr. Avetisyan also informed the Group that the relevant authorities of the Democratic Republic of the Congo had not responded to any official requests by the Armenian Government or his company on the status of the plane or charges against the crew.

53. Simeron has maintained an office at 46 Avenue Tombalbaye in Kinshasa and has operated a second aircraft, an Antonov 2, registration number EK-02301. Both

of the aircraft mentioned have a history of flying in the Democratic Republic of the Congo. In their signed statement, the crew members declared that this Antonov 2 was based at Goma. The Group found no evidence of this but did determine that the aircraft had arrived at Goma airport from Khartoum on 10 August 2004 and was registered in the RVA logbook under the name Luft Cargo. A search of the daily traffic sheets at Goma indicated that this aircraft continued to conduct flights from Goma to Walikale under the name KABI International until late August 2004. The Group has not, however, been able to determine the current location of the Antonov 2.

54. In addition, the Group is currently investigating another suspicious landing of the Simeron Yak 40 (EK-88262) at Kisangani airport on 13 February 2004. According to Mr. Karapetyan, the plane was making a technical landing enroute to Pointe Noire and arrived empty at Kisangani on that date.

2. Airspace violation: a near miss with a MONUC aircraft

55. The Group noted a significant movement of aircraft between Entebbe, Uganda, and the airports of Bunia, Isiro and Beni in the eastern part of the Democratic Republic of the Congo. These flights comprised primarily scheduled and unscheduled passenger services, commercial operations and humanitarian cargo deliveries. The Beni and Isiro flights fell under added suspicion of carrying embargoed cargo because they illegally avoided customs and immigration regulations by flying directly from Uganda to those airports, which are not habilitated for international flights. Furthermore, the Group found instances of aircraft arriving from Uganda in violation of the airspace regulations of the Democratic Republic of the Congo.

56. For example, an Antonov 12 aircraft, 3C-AAG, operated by Air Navette, was nearly involved in a mid-air collision with a United Nations aircraft departing from Bunia on 11 November 2004. The Air Navette plane, flying without the required operational transponder in controlled high-level airspace, did not follow air traffic procedures when entering Congolese airspace over reporting point Sipki enroute from Entebbe to Isiro. Air Navette provided the Group with an explanation of events, including a flight plan, a flight report and a written statement by the pilot in command. The Group has been able to determine that certain key details in those documents, such as the timing of the flight and actions taken by the pilot, are inaccurate, according to MONUC and air traffic control investigations. This case demonstrates that Congolese airspace can be properly supervised only if the crews of individual aircraft are willing to contact flight controllers and follow established aviation procedures. Clearly, this system is open to abuse by anyone seeking to violate the arms embargo.

3. Private airports: used for violating regulations for entry into the Democratic Republic of the Congo

57. The Group documented the arrival of international flights at the privately owned Beni-Wageni airport, in violation of customs and immigration regulations. For instance, two Antonov 26 aircraft, 9Q-CEZ and 9Q-CMJ, belonging to the Beni-based company Gloria Airways, arrived from Khartoum on 28 May and 4 August 2004 respectively. The Group attempted on numerous occasions to obtain information from Gloria Airways concerning those flights, including the flight plans, cargo manifests and the planes' registration certificates, to no avail. However,

a Gloria Airways employee informed the Group that the aircraft arriving on 28 May had transited through Cairo and Juba, Sudan, and had carried approximately 30 passengers from Ukraine and the Russian Federation, as well as aircraft spare parts. According to this employee, the planes arriving in Beni were part of Gloria's plan to expand its fleet of aircraft, which he claimed had already been registered temporarily as 9Q (Democratic Republic of the Congo) to facilitate operations immediately upon arrival. Serge Laktanov, the head of Gloria Airways, contended that the second aircraft to arrive from Khartoum at Beni, 9Q-CMJ, was not a Gloria Airways plane, despite its being registered in the Beni RVA logbook as such. The Group is still investigating the case and is concerned about the lack of scrutiny over illicit entries into the Democratic Republic of the Congo by those managing the airport, thus creating suspicion of complicity in circumventing the sanctions.

58. Two other international flights arriving at the private Beni-Wageni airport in violation of customs and immigration protocols were registered under the name of a South African company, Pilot Air. The two Let 410 aircraft, registered in Swaziland as 3D-ERS and 3D-ETY, arrived in Beni from Khartoum on 7 and 8 May 2004 respectively. The aircraft then departed for Kinshasa one day after their arrival in the Democratic Republic of the Congo.

4. Improper registration: convenient disguise for illicit activities

59. Aigle Aviation operates four aircraft in Bukavu and Goma. Two Antonov 28s are based at Bukavu airport, with Rwandan registrations 9XR-KI and 9XR-KV. Another Antonov 28, registered in Burundi as 9U-BHR, as well as a Let 410 with the Congolese registration 9Q-CEU, are based at Goma airport. During its investigations, the Group documented a false aircraft registration and the absence of airworthiness certificates for two of its planes, generating more reservations as to the legality of activities involving the aircraft.

60. The plane registered as 9U-BHR was registered in Burundi on 22 September 2004, according to documents submitted to the Group by the aircraft operator. On the documents, the owner is listed as Savran Pavlo, in care of Kivu Air in Bujumbura. However, the Director of Kivu Air requested from the Burundian authorities the de-registration of the aircraft after the operators of the plane refused to hand it over to Kivu Air upon its arrival in the Democratic Republic of the Congo as initially agreed. According to documents provided to the Group by the Burundian Régie des services aéronautiques, the matriculation number for this Antonov 28 aircraft, 9U-BHR, was de-registered on 12 November 2004, making its continued use by Aigle Aviation illegal.

61. Another aircraft, an Antonov 26 leased by Mango Mat Aviation from Volga Atlantic Airlines, was also registered illegally as 9U-BHR. The aircraft arrived in Beni from Ukraine via Khartoum on 28 August 2004 and was operated in the eastern part of the Democratic Republic of the Congo under this fake registration until it received a new Congolese registration, 9Q-CAW, on 8 October and was repainted at Goma airport.

62. The Group obtained documents for Aigle Aviation's Let 410, registered 9Q-CEU, including the aircraft's registration certificate and two "laissez-passer" airworthiness certificates, one signed on 24 September 2004 and valid until the arrival of the aircraft in the Democratic Republic of the Congo and the second valid between 11 and 17 October 2004. As such, the aircraft did not possess a current

certificate of airworthiness and was therefore operating illegally in the Democratic Republic of the Congo. The Group further noted that on 14 September 2004 the owner of the aircraft had changed the name of this Belgium company from Air Ocean Indien to MadAfrica Distribution. The company status was also modified, allowing it to purchase military equipment and materiel.

5. Aircraft as an asset for armed groups

63. Most aircraft operating in the eastern part of the Democratic Republic of the Congo are headquartered in the relative safety of such urban centres as Bukavu, Goma, Beni and Bunia. During commercial operations, they seldom stop over in contested territory under the control of militia or other armed groups for longer than is required to complete the onloading and offloading of cargo because of insecurity.

64. Many militia and armed groups do not benefit from air transport to the extent that they would like. One example is the Ituri armed group FAPC/UCPD, which has sought to link its disparate military strong points by air and enhance its import and export capabilities. The Group learned that the co-director of KABI International, an aviation company registered in the Democratic Republic of the Congo and mentioned in the Simeron case discussed above, discussed with FAPC/UCPD in October 2004 the possibility of basing an aircraft at Aru, where FAPC/UCPD is headquartered. Acting as both the co-director of the company and head of KABI's operations in Uganda, Melik Karen visited Aru and Arua and met with FAPC/UCPD. The current status of those negotiations is not known by the Group, but developments will be monitored. The Group is concerned that basing an aircraft at Aru will further enable FAPC/UCPD to receive weapon supplies even if its overland access to neighbouring countries is restricted in future.

6. Embargo violation: the ferrying of militia

65. Some aircraft have developed a reputation for transporting arms, soldiers and militia groups. One such plane is an Antonov 8 flying with a false Liberian registration, EL-WVA, and belonging to the Compagnie Aérienne des Grands Lacs. On 13 October 2004, the aircraft transported 10 UPC militia members from Bunia and provided a return routing for Goma. The RVA logbook in Goma, however, recorded that the aircraft had stopped over at Walikale before finally returning to Goma. The Group has identified the 10 militia members who were listed officially at the Bunia airport as students. In view of the actions taken to conceal the true identities of the passengers as well as their onward destination, the Group considers the CAGL flight to be in violation of the arms sanctions. After further investigation of the activities of CAGL, the Group presented RVA officials with the false documentation of the aircraft that it had obtained from company representatives. It also brought to the attention of RVA the fact that the "EL" registration prefix that it was using was invalid. RVA subsequently grounded the plane.

7. Suspect air companies linked to international arms brokers

66. The Group devoted considerable effort to documenting the activities of two associated air companies based in Goma, the Great Lakes Business Company and the Compagnie Aérienne des Grands Lacs, both of which are managed by a prominent pro-RCD Goma businessman, Douglas Mpano. Both companies operate aircraft that had previously been de-registered because of suspicion of involvement

in violating the Liberian arms embargo. The Group, upon discovering these aircraft, liaised with the Panel of Experts on Liberia to work jointly on furthering its investigation.

67. Numerous sources interviewed by the Group noted that the aircraft operated by those two companies were linked to the network of internationally renowned arms broker Viktor Bout through one of his frontmen, Dimitri Popov. The history of ownership and registration of both companies' aircraft also supports this connection. Mr. Mpano told the Group that Mr. Popov was his supplier of aircraft spare parts but refused to speak further about this association. Businessmen interviewed by the Group, who hire Mr. Mpano's aircraft for cargo transport, volunteered that Mr. Popov was integral to the management of GLBC and CAGL operations and that they often negotiated directly with Mr. Popov on matters pertaining to the hiring of GLBC planes, even when he was in the United Arab Emirates or the Russian Federation.

68. GLBC currently operates a fleet of five aircraft: two Antonov 32s, registration 9Q-CMG and 3C-QQT, one Antonov 12, registration 9Q-CGQ, and two Antonov 2s, registration UN-79954 and EX-70306.

69. Mr. Mpano confided to the Group that the Antonov 32, serial number 1407, with registration number 3C-QQT painted on its tail, was a de-registered aircraft. The aircraft had been officially suspended from its Equatorial Guinea registration in February 2002, along with seven other aircraft registered under the name CET Aviation, Sharjah, United Arab Emirates, after a report of the Panel of Experts on Liberia connected the company to sanctions-busting networks. Before being registered in Equatorial Guinea in May 2001, the plane had been registered in the Central African Republic under the name San Air General Trading, likewise based in Sharjah, United Arab Emirates, from October 1999 until September 2000. Both CET Aviation and San Air General Trading were identified by the Panel of Experts on Liberia as being associated with Mr. Bout.

70. Furthermore, Mr. Mpano confided that his aircraft, with Kazakhstan matriculation number UN-79954, had also been de-registered. The Group has reason to believe that the number painted on the tail enabled the aircraft to disguise its operations as MONUC flights, which might account for the numerous reports received by the Group from non-aviation sources of suspicious flights and weapon deliveries attributed to the United Nations.

71. The Group obtained documents concerning the Antonov 12 aircraft registered 9Q-CGQ that indicated that the plane had been insured jointly, on 11 November 2004, in the name of Great Lakes Business Company, with the address listed as P.O. Box 315, Goma, and Ilex Ventures Ltd, with the address listed as Cassandra Centre, Offices 201 & 202, 2nd floor, 29 Theklas Lyssioti Street, P.O. Box 58184, 371 Limassol, Cyprus. The Group contacted the company in Cyprus by phone and was told that it could not release information to the Group until it had checked with representatives in Moscow. The Group subsequently received a fax from the Cyprus director, Petros Livanios, who stated that Ilex Ventures did not have any joint projects with GLBC and did not operate any aircraft jointly with GLBC in the region or elsewhere. Instead, Mr. Livanios noted that Ilex Ventures contacts with GLBC were "limited to several supplies of aircraft spare parts and units and [sic] single deal in resale of aircraft". The Group will continue to investigate the related activities of Ilex.

72. Although Ms. Severin is the current owner of CAGL, Mr. Mpano confirmed to the Group that he was a director of the aviation company. CAGL operates one aircraft, an Antonov 8 registered EL-WVA (serial number OG 3440), which was grounded on 9 November 2004 after the Group inspected the plane and informed RVA that the aircraft was operating illegally. Pursuant to Security Council resolution 1343 (2001) concerning sanctions on Liberia, all aircraft using the Liberian prefix "EL" were required to be grounded by May 2001, at which time a new Liberian prefix "A8" would be applied. According to the Panel of Experts on Liberia, a notice to airmen was published to advise the international aviation community of this registration change. RVA permitted CAGL to continue using the EL prefix, despite the notice.

73. This EL-WVA aircraft had also been previously registered by Mr. Bout's company Air Cess in Liberia. Apparently the aircraft was operated under two registrations simultaneously. It was sold by Mr. Bout's company Transavia Travel Agency of Sharjah, United Arab Emirates, to Compagnie Aérienne des Grands Lacs for "USD 1.00 and other valuable considerations" on 30 November 2000, according to the bill of sale that Ms. Severin provided to the Group. The bill of sale entitled the seller to ongoing interests in the activities of the plane. The Group further obtained a certificate of airworthiness for the EL-WVA stamped by the Ministry of Transport of Liberia valid from 1 November 2001 until 1 November 2003, a false document according to research conducted on behalf of the Group by the Panel of Experts on Liberia.

74. However, the Group was also provided with a letter indicating that the aircraft (with the same serial number, OG 3440) had been registered in Equatorial Guinea as 3C-QQE and given clearance for operations by the Uganda People's Defence Forces early in 2003. The aircraft had been used for flights between Entebbe and Bunia under the auspices of Santair Cargo Ltd, Showa Trade Company, KM Air and UPDF. The aircraft had then been repainted with the EL-WVA registration in May 2003 and resettled in Goma.

8. Special dispensation granted

75. The case of EL-WVA is noteworthy because the aircraft had been singled out by Kinshasa and local RVA authorities to be grounded twice before, once after a near crash due to engine failure. On both occasions, provincial authorities provided special dispensation and cleared the aircraft for immediate use. Such aircraft have become invaluable to local business networks and political actors because they operate at substandard fees, driving out normal, legitimate companies, and share their profits with those who grant them patronage. These aircraft are able to operate at a lower cost precisely because they are not properly maintained or insured and because they pay only nominal operational and registration fees, if any.

C. Bukavu-Goma airport operation

76. Infractions of international aviation procedures as well as national laws in the eastern part of the Democratic Republic of the Congo are not being properly dealt with by officials at either the local or national levels. In part, this is because officials profit from locally imposed fines and penalties on an ad hoc basis, reap financial and other benefits from illicit cargo and pocket the fees paid for use of the

airport and its facilities. The Group is concerned that in the light of the prevailing sense of lawlessness, key airports in the Democratic Republic of the Congo, including Goma and Bukavu, are becoming "airports of convenience" as well as hubs from which destabilizing operations can be launched.

77. With so many illicit aircraft operating to and from the eastern part of the Democratic Republic of the Congo, the task of monitoring airborne weapon transfers to embargoed parties and areas presents an enormous challenge. The Group attempted to address this problem by tracking aircraft and air cargo companies involved in illegal and abusive practices, including operating with false or expired documentation. In an effort to obtain this type of information, the Group launched an inspection operation in conjunction with the MONUC Kivu Brigade.

78. The Security Council, in its resolutions 1493 (2003) and 1565 (2004), mandated MONUC to investigate and carry out inspections of aircraft for the purpose of monitoring the arms embargo. In conjunction with MONUC, the Group conducted its inspection of aircraft simultaneously at Bukavu and Goma airports on 26 November 2004 with targeted inspections carried out over several days. The aim was to obtain documents from all non-MONUC aircraft using the airports in order to monitor activities in the civil aviation sector.

79. The Group requested seven categories of documentation from the pilot and/or air cargo company representative, which included the aircraft flight plan, cargo manifest, registration certificate, airworthiness certificate, logbook and licence or other forms of identification of the aircrew. Every aircraft is required to carry the above documentation in accordance with paragraph 29 of the Chicago Convention of the International Civil Aviation Organization, of which the Democratic Republic of the Congo is a signatory, with the exception of the aircraft flight plan, which may be presented to the office of local control or, in the absence of such an office, communicated orally to air traffic controllers.

1. Overview of results

80. The Group attempted to inspect 26 aircraft at the Bukavu and Goma airports, of which 11 were registered in the Democratic Republic of the Congo, 4 in Rwanda, 3 in Equatorial Guinea, 2 in Burundi, 2 in Swaziland and 1 each in the Republic of Moldova, Sierra Leone, South Africa and under the discontinued Liberian registry. The operators of two aircraft, registered in Rwanda and Equatorial Guinea, refused to provide documents to the Group even after further entreaties.

81. The Group was particularly interested in verifying whether the 24 aircraft for which documents had been submitted were legally registered at present, whether their airworthiness certificates were current and whether the aircraft were insured. Those three sets of documents, if absent, expired or forged, can often indicate the status of illicit operations, which is of particular relevance for aircraft operating in an embargoed region. The results of this analysis are provided in the table below.

Type of document	*Valid*	*Expiration date not included*	*False/expired*	*None/denied*
Registration	3	15	6	2
Airworthiness	17	4	3	2
Insurance	13	8	3	2

82. Concerning the certificate of registration, only three aircraft had documents that remained valid and identified the date of expiration. Another 15 aircraft had registration certificates that did not indicate the date of expiration, with 6 having either false or expired registration certificates. The lack of an expiration date may lead to a situation in which more than one plane is granted the same registration number. The Group found that the opposite was true for airworthiness certificates, with 17 specifying the date of expiration compared to 4 that did not. Three aircraft were problematic: one did not have an airworthiness certificate, only an expired laissez-passer issued in Kinshasa; two others had false certificates. Furthermore, the insurance documents for 13 aircraft remained valid, another 8 did not have a date of expiration and 3 had no insurance at all. Of concern to the Group was the fact that 12 insurance policies did not cover the aircraft's operations in United Nations sanction areas or war zones.

83. The Group was particularly concerned about the status of aircraft registered in Equatorial Guinea and Rwanda. Four aircraft were registered in Rwanda (9XR). In one case (9XR KI) the Group was denied access to documentation and the other three had questionable paperwork. For example, they had Rwandan registration documents that were no longer valid. Of the three aircraft registered in Equatorial Guinea, the Group was denied access to documentation in one case (3C-QQT), and a second plane (3C-BAA) was not known to civil aviation authorities in Equatorial Guinea. The Group suspects that the aircraft was never officially registered, making its registration and airworthiness documents fraudulent.

2. Denial of access

84. In several instances the Group was denied immediate access to documentation from various aircraft and air cargo companies even when requested to do so by the local authorities. In a few cases, pilots did not have all of the documentation on board the plane despite Democratic Republic of the Congo and ICAO regulations. However, most of the aircraft operators subsequently provided the Group with the requested documentation, although it is not clear whether they had used the intervening time to acquire or alter the documentation.

85. The Group was denied access to documents on three occasions. Mr. Mpano, the head of the Great Lakes Business Company, refused to provide documents for the aircraft with the registration number 3C-QQT, which had been suspended by the Government of Equatorial Guinea in 2002. Pilots of Aigle Aviation aircraft 9XR-KI also refused to provide documentation, as did the crew of Swala Aviation aircraft ER-AJC. After the crew initially refused to cooperate, the head of Swala Aviation provided documentation for his aircraft to the Group. The Group remains concerned that the Swala Aviation aircraft is owned by TEPavia-Trans, based in the Republic of Moldova, which also owned an aircraft, registration ER-AJG, that crashed at Kamina military base in October 2003. This flight was operated by an aviation company based in the Democratic Republic of the Congo, Flight Express, and was suspected of transporting arms, but MONUC military observers were prevented from verifying this by FARDC soldiers stationed around the aircraft.

86. FARDC forces, led by a colonel in charge of airport security under the command of General Mabe, Commander of the tenth military region, halted the operation at Bukavu airport in the middle of the day and denied the Group and MONUC further access to landing aircraft. The denial of access to the airport raises

suspicions that civilian authorities as well as members of FARDC have a vested interest in the protection of certain aircraft as well as cargo companies that may be carrying illicit goods, in particular weapons.

D. Need for regional efforts

87. The Group is concerned that networks involved in arms smuggling and other contraband in the Democratic Republic of Congo rely upon the services and shelter of neighbouring countries for their air operations. The Group welcomes initial steps taken by the civil aviation authorities of Burundi and Uganda, which have harboured some of the aircraft associated with these networks, to prevent further abuses by adopting more restrictive and hands-on approach with respect to aircraft based in and operating from their respective countries. The arms embargo mechanism would be strengthened if those countries closed the remaining loopholes that are exploited for illicit activities.

1. Uganda: civilian versus military control

88. In order to develop mutually beneficial air operations between the two countries, the civil aviation authorities of the Democratic Republic of the Congo and Uganda signed a memorandum of understanding on 30 April 2004. One of the points of the memorandum was to designate airlines that could conduct scheduled and unscheduled operations between the Democratic Republic of the Congo and Uganda and to determine which airports in the Democratic Republic of the Congo could accommodate international flights. These are the international airports based at Kinshasa, Goma and Bunia. The memorandum of understanding replaced an internal memorandum issued by the Ugandan Civil Aviation Authority on 3 October 2000 that prohibited civil aviation operations to and from the Democratic Republic of the Congo except for operators contracted by the Ministry of Defence of Uganda.

89. The April 2004 memorandum does not, however, cover unscheduled ad hoc operations originating from Uganda, which function under separate clearances issued by the authorities of the Democratic Republic of the Congo that identify airports of first entry into the country on a case-by-case basis. An example of such unscheduled ad hoc aircraft movements concerns flights to the Democratic Republic of the Congo by aircraft based at the military apron of the old Entebbe airport but that function under civilian operators. According to Ugandan civil aviation authorities, the companies maintaining those aircraft include Air Navette, Showa Trade, Volga Atlantic and Services Air. Those four companies are allowed to base their aircraft operations from the military apron because they have at times conducted operations for UPDF. As a result, their aircraft are neither under the purview of the Civil Aviation Authority nor subject to the licensing and airworthiness regulations of aircraft based at the Entebbe international airport. The Civil Aviation Authority has banned most aircraft operating from the civilian apron for failure to meet safety standards.

90. Despite the fact that they are involved in commercial operations between Uganda and the Democratic Republic of the Congo, those aircraft do not appear to be subject to the 30 April memorandum of understanding. The aircraft used or leased by Air Navette, Showa Trade, Volga Atlantic and Services Air are mainly Antonovs that are registered not in Uganda but in Burundi, the Democratic Republic

of the Congo, Equatorial Guinea, the Republic of Moldova and Ukraine. The Group reviewed logbooks at airports in the Kivus and Ituri and has documented numerous flights associated with those companies' aircraft during the Group's mandate.

2. Burundi: more cautious towards registrations

91. Burundi has in the past served as a flag of convenience for operators in the Democratic Republic of the Congo by issuing aircraft registrations for their planes and licences for foreign pilots. Relevant international bodies, including the Panel of Experts on Liberia, had exerted pressure on the Burundian Régie des services aéronautiques to remedy this situation. In response, Burundian authorities are scrutinizing outside requests for Burundian aircraft registrations more meticulously. For example, on 19 October 2004, Burundian civil aviation authorities received an inquiry from a company based in Salem, Oregon, United States, about the possibility of registering an Antonov 8 aircraft for operations in the Great Lakes region of Africa. After discussions with the representative, the Burundians rejected the request stating that they no longer authorized registrations of Russian planes operating abroad.

92. While the Group received good cooperation from Burundian aviation authorities on several of its ongoing investigations, it would like to press the Burundian authorities to expedite the inquiry into the dual use of the matriculation number 9U-BHR. Furthermore, the Group is encouraged by the publication of the civil aviation code, dated 31 July 2001, and the decision taken by the Burundi Régie des services aéronautiques to validate existing licences rather than issue Burundian pilot licences to foreigners.

3. Rwanda: a failure of cooperation

93. The Group continues to be gravely concerned about the lack of cooperation received from Rwanda on civil aviation matters. During both of its mandates, the Group travelled to Rwanda to engage officials on civil aviation issues, among other things. The Government of Rwanda refused initial requests for civil aviation records, registries and daily traffic sheets, unlike other Governments in the region, and stated that it would respond only to specific cases presented in a written questionnaire. Without the cooperation of Rwanda, the Group was unable to thoroughly complete its investigations or clarify matters, in pursuit of its mandate, regarding allegations of Rwanda-based aircraft and companies as well as foreign entities using Rwandan territory and airspace to violate resolution 1552 (2004).

VI. Customs, immigration and commercial networks

A. General

94. The customs service of the Democratic Republic of the Congo is in dire need of an overhaul and modernization. In May 2004 Crown Agents, based in the United Kingdom of Great Britain and Northern Ireland, conducted a high-level review of customs operation commissioned by the Government of the Democratic Republic of the Congo. Of the many shortfalls documented by Crown Agents, the most compelling include antiquated practices and procedures, lack of infrastructure and equipment, excessive bureaucracy, overstaffing of posts, endemic corruption,

smuggling and the widespread acceptance of malpractice, such as facilitation payments and undervaluation or misdescription of goods. Immigration services, under the general purview of the Direction générale de la migration, are plagued by similar deficiencies.

95. These general shortcomings are compounded in the eastern part of the Democratic Republic of the Congo by the lack of State authority and by the prevailing insecurity at many border towns, including Ariwara, Aru, Mahagi, Goma and Bukavu. In some areas, the legal customs and immigration regimes are bypassed altogether and instead fall under the de facto purview of armed groups or local political leaders. By manning strategic border posts and controlling the interior trade, these stakeholders generate the revenue needed to procure weapons and carry out military activities and benefit from unhindered access to critical logistical supply lines. Such complete control over the border crossings present difficulties in monitoring the arms embargo as secure access to witnesses and documentation is limited. Officials under FAPC/UCPD jurisdiction have been abused for assisting the Group. The monitoring mechanism would be significantly enhanced by the permanent presence of FARDC or MONUC at strategic locations.

96. Similarly, armed groups and officials in the embargoed territories use their positions of authority to compel commercial entities into forming business partnerships with them with a view to establishing monopolies and generating higher revenues that accrue to their war chests. Some leaders collect their share of border revenues by establishing parallel customs, taxation and duty-levying mechanisms. Operating outside of the administrative framework of the Transitional Government, these actors are able to provide, at their own discretion, preferential treatment to business associates who dominate major sectors of the local or regional economy. Other authorities, in particular leaders of such armed groups as FAPC/UCPD, exert direct control over most sectors of their economy, including transport, security, construction, general trade and trade in mineral resources. The commercial networks specifically set up outside the purview of State control in order to provide revenue and goods to sustain a loyal military force and purchase weapons are in breach of the arms embargo.

97. A significant number of business partnerships directly allied to FAPC/UCPD and other Ituri armed group leaders have been formed with the intent of using the porosity of borders, the induced leniency, or complicity, of immigration and customs officials on both sides of the border and the preferential treatment afforded them. Other companies, many of which had legitimate operations in the region well before the outbreak of hostilities in the Democratic Republic of the Congo, are caught in a system in which they can continue to operate only if they abide by rules imposed by armed groups in Ituri or local authorities in the Kivus. These companies, some of which are large multinational corporations, are compelled to pay customs duties, other forms of taxation or even protection money to embargoed armed groups, thus contributing, however reluctantly, to the sustenance of their troops.

B. Benefits accrued by de facto control of borders

1. Freedom of movement and lax immigration procedures

98. In its first report, the Group highlighted the porosity of the border between the Democratic Republic of the Congo and Uganda, as well as the easy passage of

members of the Ituri armed groups to and from Uganda, and called for measures to be taken to curb those trends. However, no change has been noticed regarding the freedom of movement of elements of FAPC/UCPD. Rather, the Group observed several crossings of FAPC/UCPD military and civilian leaders from Aru (Democratic Republic of the Congo) to Arua (Uganda) by way of the Vurra border post with limited or no customs and immigration inspection. Upon analysis of border records, the Group was able to ascertain that normal citizens were usually inspected and registered, whereas FAPC/UCPD members were registered inadequately or not at all.

99. For instance, on 3 October 2004, the Group observed that the second in command of FAPC/UCPD, General Emmanuel Ndukuste, also known as "Manu", left the Democratic Republic of the Congo and entered Uganda at the Vurra border, accompanied by his deputy, Colonel Didier Bugemoga, and an armed FAPC/UCPD soldier in uniform. A check by the Group after the fact revealed that no customs inspection or immigration control had been conducted on the Ugandan side of the border. Furthermore, the crossing took place after 8 p.m. even though the Ugandan border post officially closed at 6 p.m. In addition, Ugandan immigration officials have issued Ugandan "temporary movement permits" to FAPC/UCPD representatives, such as Colonel Seyi on 9 October 2004, Lieutenant Colonel Omar on 11 October 2004 and Colonel Bugemoga, Clement Assia Ondia and Amadi Kamulake on 13 October 2004. According to Ugandan regulations, such permits should be issued only to Ugandan citizens.

2. Safe storage

100. The regional police commander for the north-western region of Uganda, John E. Akol, informed the Group that FAPC/UCPD soldiers were allowed to enter Uganda in uniform, but that, while in Uganda, they were required to deposit their weapons at the Ugandan police armoury at the Vurra border post. The Group subsequently checked with the police at the Vurra border post, who denied the existence of such an armoury. The safe storage by Ugandan officials of weapons belonging to FAPC/UCPD is problematic. However, the embargo is violated when Ugandan officials hand the weapons back to the FAPC/UCPD representatives as they return to Ituri, an embargoed region.

3. Negligible customs supervision

101. FAPC/UCPD profits from the absence of Ugandan customs agents at the Vis-à-vis border crossing for the illicit export of commercial goods. Vis-à-vis is a gazetted border point on the Congolese side but a mere guidepost on the Ugandan side, manned by a civilian who is not a Ugandan customs official. The Ugandan guidepost is meant only to instruct traffic entering or exiting Uganda that it must proceed for an immigration and customs check to the gazetted border posts of Lia or Vurra, respectively to the north and south of the Vis-à-vis guidepost. The Group obtained copies of the FAPC/UCPD logbook for commercial transactions conducted through Vis-à-vis between 9 September and 9 October 2004. During that period the logbook contained a notation, for example, of 36 truckloads of wood exported from the Democratic Republic of the Congo attributed mainly to the FAPC/UCPD leadership, including Commandant Jerome, his second in command, Manu, and a core group of Ugandan businessmen linked by documents to Commandant Jerome.

The Ugandan Revenue Authority provided the Group with timber import records up to 21 September 2004, and none of the wood shipments was recorded.

102. In addition, the Group witnessed the arrival of a four-wheel-drive vehicle with a soldier in uniform and two transport trucks on the Ugandan side of Vis-à-vis on 2 October 2004. The Group confirmed that the three vehicles had arrived at the Ugandan Vis-à-vis guidepost and then crossed into the Democratic Republic of the Congo without passing through either Lia or Vurra to undergo customs procedures. FAPC/UCPD benefits directly from unchecked imports from Uganda, which could readily contain arms, ammunition or other military supplies. Irrespective of Uganda's lack of capacity, the absence of qualified personnel at checkpoints could be construed as wilful neglect, which facilitates the execution of illicit operations or violations of the embargo.

4. Strengthening control measures

103. In the statement by the Government of Uganda on the previous report of the Group (S/2004/607, annex), the Government noted that there was a "lack of adequate capacity by the customs to monitor the 1,200 km border dominated by rough terrain and big lakes". Furthermore, in response to the Group's second questionnaire, dated 18 October 2004, the Government of Uganda acknowledged that in the area of immigration, owing to lack of capacity, it was unable to man all of its border posts. The Group is cognizant of the resource concerns of Uganda. However, given the gravity of the security situation in FAPC/UCPD-controlled areas, the Group recommends that the Government mobilize sufficient manpower along key road crossings, such as Vis-à-vis, to strengthen the effectiveness of the monitoring mechanism. It is likely that the cost would be offset by the payment of export and import duties as well as other customs and immigration fees currently being circumvented by FAPC/UCPD and its core business partners. Furthermore, customs, police and immigration officials at the Vurra and Lia border posts should be provided with enhanced supervision or targeted instructions to limit irregularities.

104. During the Group's meeting with the Government of Uganda on 20 October 2004, the tightening of immigration policies as well as restrictions on the movement of representatives of embargoed parties were discussed. The Group recommended the establishment of a travel ban and assets freeze for representatives of the Ituri armed groups. The Government of Uganda responded that the Security Council needed to provide guidance on these issues. The Government of Uganda informed the Group that it continued to meet the various leaders of the Ituri armed groups in the context of peace negotiations.

105. In the light of the Government's previous contacts with such representatives, it would be well-positioned to assist the Security Council and the Group in identifying them. It could do so by providing both the names and the functions of the representatives with whom it had met since July 2003 and the names of those individuals who, when contacting the Government of Uganda, had identified themselves as representatives of armed groups.

5. Pre-financing: a stable source of revenue

106. According to MONUC, Commandant Jerome has between 4,000 and 5,000 troops under his command. Unlike many units within FARDC, FAPC/UCPD

soldiers receive regular pay, ensuring their loyalty and discipline. Commandant Jerome manages to pay for his troops and other military activities, including the procurement of weapons, by usurping border and customs levies as well as through local taxation. In order to establish evidence of linkages between FAPC/UCPD payments, commercial networks and systems of revenue generation, the Group analysed a large number of documents relating to trans-border commercial activities. Some documents were provided by Ugandan authorities and representatives of companies based in Kenya and Uganda, while other documentation issued by the FAPC/UCPD was collected in the Democratic Republic of the Congo.

107. In this connection, the Group received documents it had requested from the Ugandan Revenue Authority, and in particular from the office of the Commissioner of Customs and Excise, which provided it with a list of all gazetted border posts, registers of merchandise exported or transiting from Uganda to the Democratic Republic of the Congo at the Vurra border post, Ugandan customs declarations for exports to destinations in the Democratic Republic of the Congo under FAPC/UCPD control, Ugandan customs imports from the Democratic Republic of the Congo at key border posts such as Lia, Vurra and Goli and specifically requested customs manifests.

108. The FAPC/UCPD documents that the Group obtained with the consent of Commandant Jerome included FAPC/UCPD instructions signed by him on the distribution of revenue between immigration and other agencies, the registry of "pre-financing" from the Aru border post, merchandise importation invoices for Aru and Ariwara, the Vis-à-vis border register of exports to or through Uganda and declarations of imports by the Democratic Republic of the Congo, including those for FAPC/UCPD leaders.

109. Under normal circumstances, customs revenue should be collected in accordance with the Textes Relatifs au Mode de Règlement des Dettes Envers l'État (February 2002) and ultimately transferred through the Office des douanes et accises and the public treasury to the Ministry of Finance. In the areas controlled by Commandant Jerome and FAPC/UCPD, however, customs and immigration revenues are channelled into the coffers of FAPC/UCPD and used to pay for its military infrastructure. For instance, the Group is in possession of a letter from Commandant Jerome indicating that money for the purchase of motorcycles for FAPC/UCPD militia members was taken from border customs revenues. In addition, the Group has obtained 40 handwritten withdrawal slips signed by FAPC/UCPD commanders for such contingencies as "military emergencies" and "combat rations". These slips were presented to FAPC/UCPD customs officers in Aru and Mahagi to obtain cash in Ugandan shillings from the customs receipts collected at Korombo.

110. FAPC/UCPD has masterminded a customs revenue apparatus that mimics the official customs regime, in which customs officials are instructed not to release or permit the passage of goods until confirmation of revenue payment by the trader has been received. For close business associates, FAPC/UCPD has devised its own pre-financing system, based on special dispensation rather than the direct valuation of goods at import. For instance, a trader may make a cash deposit, pay a lump-sum fee or provide commodities in lieu of cash, which is entered into a ledger with FAPC/UCPD serving as the debitor. In exchange, the trader may be reimbursed

through compensation on imported goods. As such, the trader is not required, for a given period of time usually varying from three to six months, to pay customs duties or levies each time he crosses the border with merchandise. This system ensures FAPC/UCPD of a stable income and a steady two-way flow of goods.

111. The Group has documented how this system works in practice by focusing on the goods imported into the Democratic Republic of the Congo by the primary business partners of FAPC/UCPD. Such goods are incorporated into a complex system of fraud that goes beyond a scheme of personal enrichment, being based instead on the close connection between the provision of military aid to FAPC/UCPD and exemption from customs protocols. For example, duty is not paid on goods arriving in the Democratic Republic of the Congo from Uganda that are channelled into FAPC/UCPD military camps near the border. Customs officials informed the Group that trucks delivering such goods were not inspected and that they offloaded their undeclared cargo at military camps, raising suspicions that the contents of the vehicles might include embargoed material.

112. One interlocutor in this mechanism of customs fraud and direct supply of FAPC/UCPD is the Arua-based Ugandan businessman James Nyakuni. When the Group first met Mr. Nyakuni and his staff in Arua during its first mandate, they informed the Group of their cross-border partnership with Commandant Jerome in the drink distribution business. Mr. Nyakuni happened to be in charge that day of servicing Commandant Jerome's car in Arua. During its second mandate, the Group further established Mr. Nyakuni's trade partnership with Commandant Jerome in other commodities, including "Supermatch" cigarettes, sugar, petrol and gold. The Group noted that from May to September 2004 more than 100 improper customs procedures accrued to the benefit of Mr. Nyakuni. Approximately 30 trucks belonging to Mr. Nyakuni containing a range of products crossed from Vurra to Aru, but customs protocols were not applied to their cargoes and the merchandise was omitted from customs records.

113. Given their close business ties, Commandant Jerome permits the undervaluation of the commodities that Mr. Nyakuni imports into Ituri for a prescribed fee. For example, according to the Aru customs register specific to pre-financing operations, Mr. Nyakuni paid $10,000 into the FAPC/UCPD "development account" on 12 April 2004 and therefore became a "creditor" of FAPC/UCPD. The sum in question enabled the Ugandan merchant to justify a number of border crossings by his vehicles without any payment of customs duties or other taxes on the pretext that he was the creditor. This exemption from customs duties for a period of three months also provided an authorization for Mr. Nyakuni's vehicles to avoid checks on the contents of the vehicles by customs officials of the Democratic Republic of the Congo.

114. The Group also has in its possession a letter written by Mr. Nyakuni on 27 September 2004 to customs officials in Aru reading: "Please do not perform checks on my people, who are transporting materials for my house", even though the merchant in question is domiciled in Arua. The customs officials interviewed by the Group noted that the vehicles of Mr. Nyakuni, which were being used to transport "building materials", set off directly for the FAPC/UCPD military camp in Aru upon entering the Democratic Republic of the Congo from Uganda. Customs officials noted that Mr. Nyakuni had crossed the Uganda-Democratic Republic of the Congo border that same day at the customs post of Ombay, near Mahagi where

an FAPC/UCPD camp is located. According to several eyewitnesses, Mr. Nyakuni was accompanied by approximately 10 armed individuals and significant amounts of weapons and ammunition in his truck.

115. The Ugandan and Congolese businessmen who enter into privileged arrangements with FAPC/UCPD, maintaining its operations by affording it regular income and supplies, should be held accountable for breaching the embargo, as this constitutes a form of assistance to military activities. The Group is willing to work with Ugandan authorities to identify and expose key FAPC/UCPD business partners. This joint effort should help to reduce cross-border smuggling and contribute significantly to increasing customs-generated income accruing to the Ugandan treasury.

C. Business monopolies in support of embargoed groups

116. The Group has documented how FAPC/UCPD, under Commandant Jerome, benefits from exercising a form of monopolistic control over key export trades with businessmen willing to do his bidding. The Group has been able to review the paper trail of the entire pipeline of one such commercial activity, the gold export trade, involving actors in different countries with varying degrees of complicity. The Group is keen to work with relevant Ugandan officials and authorities from those countries to determine whether certain firms and individuals are intentionally violating the arms embargo by entering into direct financial relationships with the Ituri armed groups.

117. The territory controlled by Commandant Jerome is strategically located along the border with Uganda, north of Lake Albert, and neighbours mineral-rich areas to the west and south, which include the Kilo Moto (Mongbwalu) goldmines. Aru and Ariwara are two significant border towns controlled by Commandant Jerome that serve as convenient border exit points for gold and other natural resources, including timber, as mentioned previously.

118. According to the three major licensed gold exporters in Uganda, namely Machanga, Uganda Commercial Impex and Bhimji, there are a handful of key gold traders emanating from the Aru and Ariwara area. They receive preferential commercial treatment and safe passage throughout the territory controlled by FAPC/UCPD while providing the armed group with a share of profits. These traders include, for instance, Mr. Nyakuni, Vincent Adjua and Ozia Mazio, formerly known as Mr. Omari.

119. On the basis of direct testimony from Uganda-based gold exporters as well as an examination of their paperwork, inventories and invoices pertaining to particular transactions, financial and export records and invoices for some of the commodity goods exchanged for the gold, the Group has followed the paper trail of one gold dealer, Mr. Mazio, covering transactions in Aru, Kampala, Nairobi, Dubai, London, Jersey (United Kingdom) and Neuchâtel (Switzerland). Mr. Ozia's direct relationship with FAPC/UCPD has been confirmed by the Group largely through primary source testimony, documentation of his business dealings and FAPC/UCPD documentation, including import/export records.

120. The review of an FAPC/UCPD customs ledger from Aru helps to illustrate the direct link between FAPC/UCPD and Mr. Ozia. For instance, one ledger records an

amount of $16,800 on 15 November 2003 for the account of Mr. Ozia with the notation of "*État-major*", which represents a deposit into the FAPC/UCPD account. Also according to direct witness testimony, this would match the process of a credit being created for a shipment of gold. On other dates, an amount is debited with a "purchase" notation. For example, the amount of $3,000 appears on the ledger alongside the name of Mr. Ozia with a note specifying "vehicle purchase". This process is reported for other FAPC/UCPD business partners with notations like "generator bill" or "bicycle purchase". The documents maintained by FAPC/UCPD for their own record-keeping purposes illuminate the financial relationship between FAPC/UCPD and key individuals who support FAPC/UCPD activities.

1. Gold trade: FAPC/UCPD and Ozia Mazio

121. One of Commandant Jerome's key business partners, Mr. Mazio, has regional business interests in Aru, Arua, Kampala and Nairobi as well as in Dubai and other parts of Asia. Mr. Ozia acts as a middleman, purchasing gold from artisanal miners and minor gold agents in Ituri, often at the Ariwara market, and delivering it to Kampala-based gold exporters, in particular one of the three large gold-exporting companies, Machanga. Mr. Rajua, the director of Machanga, explained to the Group how he conducted his gold export trade with Mr. Ozia and how the latter worked in partnership with Commandant Jerome, paying him "protection money".

122. Once Mr. Rajua has received the gold from the Democratic Republic of the Congo brokered by Mr. Ozia, the quantity of gold and its value are listed in his office inventory. For security purposes, Mr. Rajua explained, his clients often appear in this inventory under pseudonyms or code names. Mr. Rajua stated that the middlemen were cognizant that their gold dealings from the Democratic Republic of the Congo were illicit. Mr. Rajua allowed the Group to look at his accounts but not to make photocopies for proprietary reasons. In one of his purchase ledgers, Mr. Rajua showed the Group an entry for Mr. Ozia, with the code name "Onzy", for October 2004. According to the entry, Mr. Ozia supplied 3.970 kg of gold at a value of $45,000, and was extended a line of credit for transit goods emanating from Hong Kong.

123. Rather than paying directly for the gold, Mr. Rajua explained how he extended a line of credit on behalf of Mr. Ozia with various wholesalers in Africa and Asia, including the United Arab Emirates. Once the line of credit has been extended, an invoice for the goods is written out for Mr. Ozia, who then ships the items as transit goods through Uganda to Ituri duty-free.

124. For example, the Group tracked one of these lines of credit to KenAfric Industries Limited, a candy and footwear business based out of Nairobi. The Group spoke with the sales officer, the import-export manager and the managing director, who all provided invoices confirming that Machanga had issued a line of credit for Ozia Mazio, as well as his brother, Ozando Mazio, for transit goods into the Democratic Republic of the Congo. According to KenAfric, Machanga pays the company directly through a bank transfer from Kampala into the KenAfric Citibank account for the line of credit issued on behalf of Mr. Ozia. The sales officer also informed the Group that the Mazio brothers sometimes insisted on using pseudonyms when doing business with KenAfric and confirmed their direct links to the FAPC/UCPD. In addition, when the Group met the sales officer at the Nairobi

office, she introduced the Group to two FAPC/UCPD officers who were clients of Machanga.

125. The trade goods originally supplied to Mr. Ozia are provided at maximum value as the Congolese gold exported from Kampala is not subject to normal taxation. According to the three gold exporters interviewed, there is no tax on gold exports and only minimal export fees are paid for the departing cargo at the airport. The exporters do pay a yearly licensing fee of around $1,200 to the Uganda Mines and Geological Department. The exporters also contended that they did not need permits issued by authorities in Kinshasa in order to export gold of Congolese origin. The Director of Machanga claimed, during an interview with the Group, that he had exported 1,260 kg of gold in 47 shipments, totalling approximately $14,680,000 during the first 10 months of 2004. The Group examined copies of the documents used for exporting gold, including pro forma invoices, import licences, airway bills, security company certificates and VET forms, which include permits and the quantity of exported gold.

126. The gold is usually purchased by importers or refineries. One of the key importers of Congolese gold from Kampala is the Hussar company, which is based in Jersey, a British offshore business centre in the English Channel. In exchange for the gold, Hussar made deposits, on instructions from Machanga, directly to the Stanhope Forex Bureau in Uganda, and on the instruction of Uganda Commercial Impex, either to its account at Crane Bank or directly to the Midland Forex Bureau in Uganda. The key refineries that have purchased gold from Machanga are Metalor (Switzerland) and Rand Refineries (South Africa).

2. Exclusive rights: FNI and Butembo Airlines

127. Mongbwalu is a gold-mining zone currently controlled by the pro-Lendu and embargoed Front nationaliste et intégrationniste, led by Floribert Ndjabu. Given the significant revenue generated by those mines, the area has been prone to fighting between various Ituri armed groups. Mongbwalu is located in a secluded part of the Ituri hinterland, where the road network is poor and insecure.

128. Butembo Airlines is a privately run aviation company based in Butembo and is the only airline to operate scheduled flights to Mongbwalu. The aircraft, owned by Dr. Kisoni, a Congolese national, primarily hauls commercial and supply goods into Mongbwalu and transports gold out. Companies that have used BAL flights into Mongbwalu described the business relationship between Dr. Kisoni and the FNI leader, Mr. Ndjabu. The latter has allowed BAL almost exclusive landing rights into Mongbwalu, on the condition that BAL facilitates the outward shipment of FNI gold. Based on interviews of gold exporters and a review of gold export documentation, the Group has confirmed Dr. Kisoni's involvement in the gold trade from Mongbwalu, and also from Watsa, Durba and Isiro.

129. The Group met with the owner of BAL as well as a company representative to enquire about the company's operations. The Group was informed that BAL, which operates one Antonov 28, registration 9Q-CAX, transports commercial goods from Butembo to Mongbwalu for Nande businessmen based in Butembo. As witnessed by the Group, the cargo destined for Mongbwalu is delivered to the BAL office already sealed and its contents are not checked against the manifests provided by the clients. The company representative further informed the Group that BAL was compelled to

pay a fee of $60 to FNI each time it landed at Mongbwalu airport and to donate at least one seat per flight for the transport of FNI members.

130. The provision of air support and the facilitation of gold trade by BAL to the benefit of FNI should be considered a violation of the arms embargo. Furthermore, the Group is concerned that the airline's transport of cargo into FNI-held territory is also open for abuse by BAL clients, as it does not have adequate controls for preventing the transport of embargoed material.

3. Plausible deniability: AngloGold Ashanti

131. AngloGold Ashanti currently possesses the right to exploit the Kilomoto gold concessions in Mongbwalu through its partnership with the Kinshasa-based parastatal company Okimo. AGA started its gold exploration programme in November 2003 and informed the Group that it had kept Kinshasa authorities and MONUC updated on its operations. In a letter to relevant authorities in Kinshasa, AGA requested that armed security units be deployed in Mongwbalu to protect its employees and installations. AGA informed the Group that no weapons or other security equipment would be required before August 2005. Exemptions that may be put in place to allow for legitimate and licensed security companies to operate in embargoed regions should be reviewed by the Security Council. Although satisfied that AGA has not introduced weapons into Mongbwalu, the Group remains concerned about AGA support for an embargoed party, FNI, which facilitates its military activities.

132. AGA representatives informed the Group that FNI had sent letters to AGA headquarters through Okimo requesting that AGA provide it with vehicles, computers and other supplies in exchange for which AGA could operate in a safe environment. AGA stated that it refused such assistance to avert possible bad publicity. The Group is currently investigating whether a high-ranking FNI leader, known as Pitchou, received financial compensation from AGA. A company representative stated that there was confusion between assistance to FNI and "back pay" allocated by AGA to a former employee for approximately $35,000.

133. AGA representatives informed the Group that they had met Mr. Ndjabu in March and May 2004, declining both times to provide him with direct assistance. However, they admitted that Mr. Ndjabu's house in Mongbwalu had been provided by AGA and that the AGA-sponsored clinic had treated FNI armed elements. They further volunteered that the FNI collected taxes, other fees and "small items" from AGA each time AGA personnel or cargo arrived at the airport.

134. As long as Mongbwalu is controlled by an embargoed armed group, companies such as AGA that operate with authorization from Kinshasa will continue to find themselves in an ambiguous position vis-à-vis the arms embargo. Although AGA is compelled to abide by FNI rules if it is to operate, AGA could arguably be in violation of the arms embargo through its direct payment and assistance to an embargoed party.

D. Commandeering supplies

1. Battlefield acquisition: a mode of transfer

135. Several militia leaders informed the Group that they were able to acquire arms on the battlefield. Such acquisition tactics often involve the targeted theft of the military stocks of one militia group by another. For example, the Group received information from both Mr. Ndjabu and Commandant Jerome Kakwavu concerning weapons stolen from the FAPC/UCPD by FNI. One "battlefield acquisition" reported to the Group occurred in Djalasiga, a contested gold-mining area. On 31 August 2004, FNI stole one case of rockets, two recoil-less rifles, two rocket-propelled grenades, twelve she-guns (AK-47s) and two 62-mm and 82-mm mortars. Mr. Ndjabu informed the Group that those weapons had been supplied to FAPC/UCPD from Uganda. This particular theft of weapons by FNI was admitted to the Group by Commandant Jerome on 5 October 2004. He further informed the Group that the weapons had been supplied from Uganda, his ally. The Group has strong evidence concerning the entry into the Democratic Republic of the Congo of approximately 100 Ugandan soldiers and intelligence officers in support of FAPC/UCPD, with ammunition, just after FNI defeated FAPC/UCPD in Djalasiga and stole the military hardware.

136. In addition, FNI confiscated a shipment of arms from Uganda on 7 November 2004 that was intended for FAPC/UCPD. Two vehicles registered in Uganda were intercepted by FNI in Djalasiga. According to Mr. Ndjabu, one vehicle was destroyed during the fighting and the goods of a second truck were stolen by the FNI commander, Mr. Mambo. The vehicle was carrying three 50-, 60- and 82-mm mortars, five rocket-propelled grenade launchers, 150 cases of ammunition for AK-47s and other ammunition. The arms were transferred under FNI escort to Nioka, an FNI stronghold.

137. The initial supply of weapons to Ituri is integral to the system of battlefield acquisition. Several leaders of armed groups in Ituri informed the Group that they were not purchasing weapons at present because there were already sufficient stocks in the eastern part of the Democratic Republic of the Congo from the country's successive wars.

138. The Group was able to determine, however, that arms continued to be supplied to Ituri in violation of Security Council resolution 1552 (2004). The Group is currently investigating several apparent cases of weapons being delivered to Ituri through Uganda. For example, a former FAPC/UCPD soldier who had recently been demobilized informed the Group that arms had been supplied to the FAPC/UCPD camp in Mahagi from the Arua UPDF military camp. This soldier, who was responsible for the logistics of the operation, noted that the arms comprised 26 82-mm mortar shells, 10 mines and 22 cases of ammunition for AK-47s. The description of the arms was also confirmed by MONUC in Mahagi.

139. Other cases of arms supply that the Group is still investigating concern the aerial delivery of embargoed material to UPC positions north of Bunia. The Group has received information from eyewitnesses that a Uganda-based aircraft operating from Entebbe landed at Bulé on 3 October and 14 November 2004 to deliver cases of arms and ammunition. The Group was unable to visit Bulé during its present mandate, but has held initial meetings with the air cargo company concerned and has noted several inconsistencies in its technical logbook regarding the dates.

2. Walikale: competing networks support opposing FARDC units

140. The cases mentioned above illustrate how embargoed parties receive logistical or financial support that allows them to operate militarily. The Group has also investigated cases that are more difficult to interpret because the recipients of the military assistance, although technically part of the integrated army, operate outside of the integrated command and control structure. In Walikale, control over cassiterite mines has been a significant factor behind the cyclical fighting in that area. Competing commercial networks have aligned themselves with different military units on the ground for privileged access to the cassiterite. As such, the networks provide their military allies with logistical support, including transport of military personnel and supplies.

141. The mineral-rich territory of Walikale has become a key battleground between ostensibly integrated former ANC and Mayi-Mayi troops who have ceased to obey the eighth military region commander, in part because of irregular pay. In their fight for control over Walikale's cassiterite mines, ex-Mayi-Mayi units are supported by FDLR troops. To sustain themselves, those units have turned to siphoning off substantial profits from the cassiterite trade and have developed business partnerships, which, in exchange for privileged access to cassiterite, provide logistical support. These commercial networks include allied air cargo companies, commercial companies and cassiterite *comptoirs*.

142. The most practical way to transport cassiterite from Walikale territory is by air, as the roads from Walikale to Goma and Bukavu are insecure and at times impassable. For this reason, one of the most contentious areas is around Mubi, where one of the region's main tarmac roads has been transformed into a de facto landing strip. Many of the aircraft based in Goma and Bukavu are chartered on a daily basis to collect cassiterite from Mubi for purchasing agents. Once the cassiterite arrives in Goma, shares are distributed to local military and political authorities before being transported across the border to Gisenyi, Rwanda, where a smelting factory is located, or exported to South Africa.

143. At times, the competition over cassiterite spirals out of control. For instance, in mid-September 2004, military activities in Walikale peaked for a week between the combined forces of the 112 and 114 battalions led by ex-ANC officers, Major Gervais Kambale and Major Wilson respectively, and a coalition of ex-Mayi-Mayi and FDLR forces. Although the civilian population bore the brunt of the abuses and was forced to carry arms and ammunition for different troops, *comptoir* representatives were also injured or detained by military units who backed their competitors.

144. In the lead-up to these skirmishes, many of the aircraft used by *comptoirs* in the cassiterite trade were used to transport soldiers and goods. Several companies explained to the Group that it was standard practice to carry troops when flying to the Walikale area, but that the requests at this time far exceeded the normal allowance. Just after the fighting broke out, on 12 September, there were 17 rotations between Goma airport and Walikale involving mainly the Great Lakes Business Company, Peace Air Company and KABI International, the same companies that the Group is investigating for arms trafficking. However, according to other aviation companies, *comptoirs* and flight records, PAC, chartered by the *comptoir* Sodermines, was the only company allowed to fly into the area over the

following three days because of its direct ties with the military forces controlling Mubi during that period.

145. The Group contacted the owner of the PAC aircraft, Tony Omende, of Doren Air Africa (SL) Limited, at his office in the Czech Republic. He explained that an attempt had been made to commandeer this aircraft, which he had leased to PAC with the Sierra Leone registration number 9L-LEM during this outbreak of fighting, on 16 September 2004. According to Mr. Omende, Banyarwanda soldiers had attempted to force the crew of the aircraft, which had landed at Walikale, to transport weapons to an undisclosed location, but were able to defuse the situation when the pilot claimed that the plane had a technical problem.

146. In response to the outbreak of fighting, General Obedi called a meeting of all cassiterite *comptoirs* on 12 October 2004, including representatives of Mining Processing Congo, Groupe Mesol, MHI, KANU, AMUR, Cometex, Divimines, Clanab and Munsad, but with the notable exception of Sodexmines. Discussions centred on the support of the *comptoirs* for the different military factions around Mubi, which General Obedi no longer fully controlled. One result was the suspension of Major Kambale for his involvement in this particular incident. However, the suspension was lifted after a week.

VII. Internal dynamics and external factors

A. FARDC and the Kivus

147. The events in Bukavu of May and June 2004 adversely affected the Transitional Government, army integration and the disarmament, demobilization, repatriation, reintegration, resettlement process, with surprisingly little accountability for those whose actions precipitated the crisis. Rather, tensions heightened between the eighth and tenth military regions and former alliances with foreign elements were reinvigorated. Both of those developments have had negative consequences for the arms embargo.

1. Kinshasa deploys eastward

148. In the wake of the Bukavu crisis, Kinshasa ordered the deployment of tens of thousands of troops to the eastern part of the Democratic Republic of the Congo to tighten its control over that part of the country. MONUC had not been sufficiently forewarned, nor had it been provided with specifics as to the mechanics of the deployment. As a result, it has been difficult for the Group to ascertain whether the various troops and units deployed in the east actually constitute forces of the "integrated army". If troops are being deployed to Ituri and the Kivus or resupplied outside of the actual integration process, such deployment could be considered a violation of the arms embargo.

149. The case of Vice-President Jean-Pierre Bemba's air company, CO-ZA, illustrates the ambiguities of the integration process and its repercussions on troop deployment. According to RVA documentation at Beni airport, there were 76 flights labelled as military in nature arriving at Beni airport from 5 June to 22 October 2004. Those FARDC flights, operated by civilian companies, comprised primarily two CO-ZA Airways Antonov 26 aircraft, owned by Vice-President Bemba, which

accounted for 69 of the arrivals. The military deployment and rotation in Beni was further bolstered by other aircraft contracted by FARDC but not entered into the RVA logbook as such. On the basis of interviews conducted at Beni airport, the Group ascertained that the initial FARDC flights had brought reinforcements to Beni, including a regiment of FARDC commandos and the forty-third FARDC brigade, although it became more difficult to monitor the arrivals thereafter.

150. MONUC military observer teams were prevented from monitoring the nature of the aircraft deliveries from late June to late July 2004, as exemplified by the denial of authorization for MONUC helicopters to land at Beni airport's "tarmac 2" when aircraft carrying FARDC troops were also present. During this time, the Mission's access was restricted to a small part of the public area in the airport for a minimal amount of time, with FARDC acting in an openly hostile manner towards MONUC personnel. Tarmac 2 was opened for MONUC use only on 14 July 2004. The Group was further informed that as from October 2004, those flights ferried ex-MLC unit exclusively. The ex-MLC troops remained separate from other FARDC soldiers already based in Beni.

151. The redeployment of ex-MLC troops may be part of the national reintegration programme, but the Group found it difficult to distinguish between the genuine movement of troops for integration and other activities in violation of the embargo. For example, the Vice-President's aviation company profits excessively from the redeployment of ex-MLC forces. According to sources interviewed by the Group, Mr. Bemba charges the Government twice the market price for using his planes on an hourly basis, whereas other air operators complain that they are forced to transport FARDC troops and provisions without payment. Determining the genuine nature of these aircraft movements, and whether they represent government-mandated troop movements or other motives, is further complicated by the immediate history of aircraft operated by CO-ZA Airways. For example, the Antonov 32 registered 3C-QQT made seven flights to Beni between the end of June and the end of July 2004, which were listed in the RVA logbook as dual-use charters for FARDC and CO-ZA Airways. This aircraft has been linked to the international arms dealer Viktor Bout, previously a business partner of Mr. Bemba. Moreover, another CO-ZA Airways aircraft, a Boeing 727 registered 9Q-CBF and purchased in May 2004, has been investigated by the Panel of Experts on Liberia because of the plane's prior use in Liberia and Nigeria.

152. Access to information on deployments, payments and supplies would help the embargo-monitoring mechanism by allowing it to distinguish between rearmament and provisioning operations conducted on instructions from the *État-major* in Kinshasa and those that fall under other command structures acting outside the integration process.

2. Infighting between the eighth and tenth military regions

153. The relationship between the eighth and tenth military regions further demonstrates the ambiguity of the army integration process. Given that two military regional command structures are officially part of an integrated FARDC but are in conflict with one another in the field, the Group found it problematic to determine whether the targeted arming and supplying of military units under one command by units under another were in violation of the arms embargo.

154. After the defeat of the dissident Colonel Mutebutsi and his safe passage into Rwanda, officials in Kinshasa turned their attention to the dissident troops of General Nkunda, entrenched at the time in military camps in the area of Kalehe and Minova, in the eighth military region, near the southern border with the tenth military region. In view of the reluctance of the Commander of the eighth military region, General Obedi, to oust General Nkunda from his stronghold, the Commander of the tenth military region was given the task instead. To this end, the tenth military region consolidated its alliances with ex-Mayi-Mayi troops in the eighth military region, in particular by providing weapons to them, for joint operations and as a bulwark against General Obedi's insubordination. The Group interviewed ex-Mayi-Mayi units of the eighth military region in Masisi and Walikale, including Colonel Akilimali Shemondo, the commander of the thirteenth brigade, who stated that his troops receives clandestine weapon supplies from the tenth military region. The units were supplied militarily and logistically by overland portage or by road along the Bukavu — Walikale axis.

155. Rather than engaging in serious military confrontation, General Nkunda's troops returned to their respective FARDC units, in the eighth military region, without being held accountable for their dissident activities. General Obedi was subsequently ordered to arrest General Nkunda, but made no attempt to do so. To date, General Nkunda enjoys freedom of movement. Soldiers who wilfully supported General Nkunda's dissident activities are in violation of the arms embargo. The command structure of the eighth military region at the time should also be held responsible for this violation. The Group notes that General Obedi has been transferred from his post in the eighth military region.

3. Consolidation of alliances with embargoed parties

156. In the light of internal dissension, desertions and a halt in steady supplies from Kinshasa-based allies, the Forces démocratiques pour la libération du Rwanda has looked to upgrade operations by turning more to political and financial backers from the diaspora in Europe and shifting supply conduits to the east, which the Group continues to investigate.

157. The Bukavu crisis enhanced the position of FDLR. With Rwanda backing General Nkunda and Colonel Mutebutsi's renegade soldiers, forces of the tenth military region reinvested in the superior military prowess of FDLR and new, circumstantial, alignments were formed.

4. FDLR fronts

158. FDLR positions in North Kivu include Masisi, Walikale and Rutshuru. Through intermarriage, a large number of FDLR troops have Congolese dependants and are, to a certain degree, integrated into the Congolese social fabric. More sedentary than some of their counterparts on the southern front, they deploy reconnaissance and forward units for limited periods of time or more substantial and self-sufficient mobile units for prolonged activities in and around Virungu National Park. During a field mission conducted with MONUC to Mweso on 10 November 2004, the Group interacted with FDLR and observed that they were well-equipped in terms of weapons, communication systems and military attire. The Group has been informed that FDLR sporadically receives military supplies from elements of

the tenth military region using the Bukavu-Walikale axis. FDLR informed the Group that it had also recently received supplies through Uganda.

159. In South Kivu, the key positions of FDLR include Walungu, the Ruzizi Plain, and largely inaccessible parts of Kahuzi Biega National Park. Elements of the southern front of FDLR, which at times receives direct supplies from FARDC units of the tenth military region, are gravitating towards the same supply networks used by the Front national de libération, a Burundian rebel group, and previously by CNDD/FDD. The two major fronts of FDLR, in North and South Kivu, are interconnected by road and overland accesses. Both fronts have access to key mining areas and exchange minerals for money and supplies. They also generate revenue through roadblocks and local taxation.

5. FDLR siphoning of FARDC stocks

160. The commander of the tenth military region, General Mabe, has done little to redress the problem of the resupply of FDLR troops from tenth military region stocks. Among the cases discussed by the Commander of the tenth military region and MONUC, one involved supplies to FDLR troops located along the Ruzizi Plain near the town of Uvira. Colonel Nakabaka, the ex-Mayi-Mayi commander of the one hundred and eleventh brigade at Kiliba, which borders Burundi, has supplied weapons, munitions and other military equipment to both FDLR and the Burundian rebel group, FNL, from FARDC stores, at times in exchange for cows stolen by FDLR and FNL across the border in Burundi. Although the Commander of the tenth military region has threatened to remove Colonel Nakabaka for those activities since early November 2004, he is still in place. Since the Gatumba massacre, Colonel Nakabaka has accumulated property and filled administrative posts belonging to the deceased. As a result, he has firmer control, both economically and administratively, over his area of responsibility.

161. In another instance, FARDC units based at Walungu and ostensibly engaged in disarmament, demobilization, repatriation, reintegration and resettlement activities, were reprimanded for providing weapons to elements of FDLR and were subsequently redeployed elsewhere. Their successors were caught conducting similar transactions. The Commander of the tenth military region has arrested brigade leaders and claims to have launched a full investigation, particularly of troops posted in the Nzibera area.

6. Cohabitation with FDLR

162. The Group considers wilful cohabitation, for purposes of mutual assistance, of FARDC troops with military units of a foreign armed group to be a violation of the embargo.

163. Before assuming his command post in Bukavu, Colonel Mutebutsi's military stronghold was Uvira. During the Bukavu conflict, the troops he previously commanded in Uvira joined his renegade forces in Kamanyola. At the same time, ex-Mayi-Mayi and allied FDLR elements were called upon to oppose Mutebutsi's forces. In the aftermath, the balance of power changed in the Ruzizi Plain. The former Mayi-Mayi, based out of Uvira under Colonel Nakabaka, formed a circumstantial alliance with old allies, FDLR and FNL. Colonel Nakabaka's entourage is less interested in a political agenda than in assuming administrative functions and organizing lucrative criminal activities, with the aid of the FNL and

FDLR which they succour in exchange for proceeds obtained largely from cross-border raids. Colonel Nakabaka's support for foreign armed groups in the Democratic Republic of the Congo constitutes a violation of the arms embargo.

164. The FDLR allies of Colonel Nakabaka have entrenched themselves in positions along the Ruzizi Plain and atop hills to the west, particularly in the areas of Sange, Livungi and Lemera. The Ruzizi Plain spans both the Congolese and Burundian sides of the border. In the Democratic Republic of the Congo, it encompasses a major stretch of road along the main thoroughfare for travel between Bukavu and Uvira. Access to the Ruzizi Plain is coveted by FDLR, as well as FNI, as it permits easy infiltration from the Democratic Republic of the Congo into Burundi and further into the southern parts of Rwanda. The Group conducted an assessment mission along an 80-km stretch of road between Kamanyola and Uvira and noted the interspersing of illicit roadblocks set up for taxation purposes and manned at successive intervals by troops belonging to the command of the former Mayi-Mayi, FDLR, Patrice Masunzu and FARDC. The Group also witnessed FDLR troops serving in ex-Mayi-Mayi units as bodyguards. In addition, the Group visited local markets on the outskirts of Uvira and observed FDLR elements purchasing radios and other electronic gear with fresh $20 bills.

165. General Mabe has been unresponsive towards the highly visible presence of FDLR in the Ruzizi Plain. One notable example occurred on 1 August when FARDC soldiers intercepted more than 25 heavily armed FDLR soldiers in the vicinity of Muterele camp. While the Commander of the tenth military region reported to MONUC that his troops had captured FDLR elements, it later transpired that those elements had merely been surrounded. The FARDC troops subsequently retreated, allowing FDLR to disperse.

166. The deployment of Pakistani troops (ONUB) on the Burundian side of the Ruzizi Plain is soon to be mirrored by the deployment of Pakistani troops (MONUC) on the Congolese side. Cooperation between the two contingents should strengthen the capacity of both ONUB and MONUC to monitor cross-border insurgent activities and the arms embargo.

167. South of Uvira, in such localities as Fizi, Baraka and the Ubwari Peninsula, ex-Mayi-Mayi troops under General Dunia's command appear to have even less contact with the tenth military region chain of command. The Group is investigating possible assistance received by foreign armed troops in the area, including deliveries of weapons from across Lake Tanganyika and military training of FNL. The Group is particularly concerned about Ubwari Peninsula, which is a strategic passage for boats crossing Lake Tanganyika. As such, there has been considerable movement of Congolese refugees returning from the United Republic of Tanzania to the Peninsula. The presence of refugees and the incessant movement of Congolese nationals across the lake provide adequate cover for armed groups using the crossing point.

168. MONUC conducted multidisciplinary missions to the area up to January 2004 and was able to report on the voluntary return to Burundi of most CNDD/FDD combatants between November 2003 and January 2004. As MONUC noted, most of those combatants had crossed into the Democratic Republic of the Congo from the United Republic of Tanzania by boat or had moved northward through the Democratic Republic of the Congo and crossed the Burundian border unimpeded along the Ruzizi Plain. As FDLR and FNL seek mutual alliances with the former

Mayi-Mayi, they may now be using strategic staging grounds pioneered by CNDD/FDD. The Group intends to keep apprised of the situation, as it has the potential to destabilize relations between the Democratic Republic of the Congo and Burundi and to undermine the transitional processes in both countries.

169. Although the Group did not travel to Walungu, another FDLR stronghold, it received highly credible reports, including from MONUC, international non-governmental organizations and local sources, of similar cohabitation between FDLR and FARDC units. When confronted by MONUC over reports that FARDC units were mingling with FDLR, General Mabe claimed that such proximity was an efficient means to "sensitize" them to disarmament, demoblization, repatriation, reintegration and resettlement. It was also widely reported that FDLR and FARDC had executed joint operations in Walungu to defeat the banditry-prone renegade FDLR elements known as "Rasta".

B. Role of Burundi

1. Support of Burundi for Colonel Mutebutsi

170. During the events in Kamanyola in June 2004, Colonel Mutebutsi's renegade troops were joined by troops from Uvira, which had formerly been under Colonel Mutebutsi's command. In order to regroup in Kamanyola, these troops, from the ninety-third and ninety-fourth battalions, were assisted by the Forces armées burundaises, the mainly ethnic Tutsi forces of the Burundian Government, which organized a transport operation to aid the dissident forces. On the evening of 12 June 2004, Colonel Mutebutsi's military sympathizers crossed the Ruzizi River at Bwegera into Cibitoke Province (Burundi), where FAB elements were waiting with vehicles. The dissident Congolese soldiers were escorted by FAB through Citiboke up to the Rwandan border. With Rwandan assistance, the sympathizers subsequently reunited in Kamanyola with Colonel Mutebutsi. The support provided to Colonel Mutebutsi's troops by both Rwanda and Burundi constitute violations of the arms embargo. Details of FAB support for the operation were obtained from local sources in Burundi and through interviews with three former Mutebutsi combatants who fled Coko camp (Rwanda) in mid-September 2004.

2. Burundi as a potential source of arms

171. Insecurity in Burundi, and in particular in Bujumbura Rurale, is high. Insecurity is compounded by the estimated 300,000 guns currently in the hands of the various military groups engaged in the peace process, as well as militias, local defence forces and insurgents. As disarmament campaigns elsewhere have shown, former combatants are prone to sell their excess weapons as the disarmament process gets under way. This massive amount of unregulated weapons represents a potential source of supply for foreign armed forces based in South Kivu, and already there are reported instances of Burundian military personnel trading their weapons across the border.

172. While the cantonment and disarmament process in Burundi is still in its incipient stage, it is feasible to design a disarmament stockpile inventory system so as to produce baseline data on the origins of weapons and other relevant information. Such data would better enable the Group to analyse weapons found in

the Democratic Republic of the Congo and to trace those that may be of Burundian origin.

C. Current crisis in North Kivu and associated violations

173. After the Gatumba massacre of 13 August 2004, both Burundi and Rwanda threatened to invade the Democratic Republic of the Congo in pursuit of the perpetrators, and Vice-President Ruberwa, ex-RCD-Goma, pulled out of the Transitional Government for several weeks. In North Kivu, the dissident General Nkunda and Banyamulenge political leaders warned that war would resume if the Banyamulenge continued to be victimized. Despite international efforts to promote peace in the region, including the establishment of the Tripartite Commission and a Joint Verification Mechanism between Rwanda and the Democratic Republic of the Congo, events on the ground signalled a different reality. Preparations were being made to recruit, train and arm forces for military operations in North Kivu, resulting in violations of the arms embargo.

1. North Kivu Governor plans ahead

174. As the tenth military region consolidated its military alliances at the expense of the eighth military region, whose military funding was reduced by Kinshasa, Eugene Serufuli, the Governor of North Kivu initiated the creation of armed militias. To this end, a highly organized and systematic arming of a predominantly Hutu civilian population throughout parts of Masisi and Rutshuru was initiated, despite the prior issuance of an order establishing a committee for a North Kivu disarmament, demobilization, repatriation, reintegration and resettlement programme on 21 July 2004.

2. Weapons distribution in Masisi

175. The Group conducted a field visit to Masisi territory (North Kivu) in mid-November to verify allegations that arms had recently been distributed to civilian populations in a multitude of villages spread throughout the area. Numerous interviews, many of them taped, confirmed that a weapons distribution programme had been organized out of Goma by Governor Serufuli's administration, with a view to arming local Hutu communities in Masisi. The ideology espoused was that the weapons were necessary for protection against a potential FDLR, ex-FAR and Interahamwe attack.

176. The Group interviewed local authorities, including *chefs de groupement*, military and police commanders, religious authorities and humanitarian and human rights groups. Leaders of villages where arms were distributed, as well as recipients and victims, were also interviewed. General Obedi did not deny the Masisi distribution during his meeting with the Group. However, to avoid responsibility, he stated that a joint verification effort involving his security forces and MONUC should be launched. Obedi was summoned to Kinshasa the next day and his temporary replacement, Colonel Dunia, publicly announced that he was aware of the distribution as well as those responsible for it.

177. At no point were the weapons presented directly to the Group, although along the axis between Masisi Centre and Nyabiondo, the Group observed more than the usual amount of weapons among civilians, mostly young people. The Group has in

its possession several documents indicating specific locales where weapons were distributed, some of which the Group directly verified. Independent research carried out by MONUC military observers, Radio Okapi, Human Rights Watch and other human rights groups confirmed the illicit arms distribution.

178. The distribution campaign in Masisi was organized through the territorial administration, tightly controlled by Governor Serufuli. One series of weapon transfers documented by the Group began on 8 October 2004 when a truck transported weapons and ammunition from Goma to Bushiha, in Masisi. Eyewitnesses later saw the offloading of some military hardware at Lushebere. On or around 11 October, some of those arms were transferred to Kibabi for further distribution to various village areas, continuing throughout Masisi territory until 15 October. Some of the weapons were delivered on trucks belonging to Tous pour la paix et le développement, a Goma-based non-governmental organizations sponsored directly by Governor Serufuli, and were escorted by military units of the eighth military region.

179. Once in the local communes, the weapons were further disseminated in several ways. Young men were instructed to pick them up at communal distribution sites or in neighbouring villages. In other cases, local authorities left weapons outside houses at night, obliging families to collect them by morning. Those who refused were either shot or compelled to flee to urban areas. The Group interacted with such victims in Masisi Centre. Youth were among the primary targets for distribution, and the Group interviewed a teenage victim shot for refusing to comply. The Group also found that, in communities comprising both Hutu and Hunde ethnic groups, the Hunde were intentionally excluded from arms allotments.

180. While the Group was unable to ascertain the precise motive for arming a predominantly Hutu Kinyarwanda-speaking population outside a specified command and control structure and without relevant training or sensitization, the destabilizing impact was immediately felt. Owing in part to simmering tensions following the Bukavu crisis and the displacement of a large number of Kinyarwanda speakers into the area in the aftermath of operations conducted by the Commander of the tenth military region along the territorial border of the eighth military region, acts of hostility and open conflict erupted between previously cohabiting Hutu and Hunde communities. In turn, this led to low-intensity skirmishes between ex-ANC and ex-Mayi-Mayi units of FARDC, with the latter protecting the unarmed Hunde, with whom they were more closely allied. The Group interviewed displaced persons from both ethnic groups seeking shelter in larger towns, such as Masisi Centre. To check the validity of their claims, the Group travelled on the same day to their areas of origin and subsequently verified the information.

181. During this period, clergymen of the Catholic church from different parishes met to discuss the distribution, fearing the heightened insecurity and instability that might ensue. Contrary to claims that the weapons were for protection against FDLR, it became apparent in interviews with several Hutu recipients around Kababi that their main concern were ex-ANC forces.

182. The pattern of distribution mimics the logistical and administrative procedures previously instituted by Governor Serufuli to build his "local defence forces". Governor Serufuli claims that the local defence forces are now integrated into FARDC. Although the ranks of FARDC increased shortly after the local defence forces were disbanded, it is unclear to whom the former local defence forces answer.

The Group is concerned that former elements of the local defence forces who are loyal to the Governor of North Kivu might be reconstituted for illicit military activities in violation of the arms embargo as the situation dictates and that those troops might be reinforced by the recipients of the arms distribution in Masisi territory.

183. The distribution of weapons to civilians, intended as a force multiplier outside the structures of the Transitional Government and within an embargoed area, constitutes a violation of the United Nations arms embargo and must be dealt with accordingly. The Group will continue to investigate the source of the weapons as well as their supply route into North Kivu. In this connection, the Group needs to verify reports that it continues to receive of weapons of Eastern European origin supplied by Rwanda that crossed the border between Giseyni and Goma.

184. While investigating the arms distribution networks, the Group was informed of related training activities. Although the Group was unable to return to Masisi to verify those claims, they were corroborated shortly after by MONUC and human rights sources.

3. Ongoing support by Rwanda for dissident forces

185. In line with Security Council resolution 1533 (2004), States should be proactive in taking measures to curtail violations of the arms embargo. Enforcement is ultimately contingent upon the cooperation of States, and those found violating the embargo should be held accountable. The Group is concerned that the territory of Rwanda continues to be used for recruitment, infiltration and destabilizing purposes.

186. In its first report, the Group demonstrated Rwandan support for military recruitment drives by Congolese military and political leaders, including the dissident General Nkunda, within refugee camps supported by the Office of the United Nations High Commissioner for Human Rights in Kiziba and Gihembe (Rwanda). The loss of refugee status and refoulement was one intimidation tactic used to pressure the refugees into submission. In a follow-up investigation, the Group documented Rwandan support for the militarization of youth in the Kiziba refugee camp and their subsequent infiltration into the Democratic Republic of the Congo for military purposes, in a violation of the arms embargo.

4. Recruitment in the Kiziba refugee camp

187. The Kiziba refugee camp is located in Kibuye Province on the Rwandan side of Lake Kivu, bordering the Democratic Republic of the Congo. The camp shelters approximately 16,000 refugees, the majority of whom are Banyarwanda from North Kivu. A registration exercise for Kiziba refugee camp was scheduled by UNHCR and its Rwandan government partner, the Ministry of Local Government, for April 2004. This exercise was to be conducted with the support of the Rwandan security forces. However, claiming internal coordination difficulties, the latter failed to show up for the registration exercise on the planned date. That same evening, General Nkunda visited the camp to initiate an operation leading to the enlistment of youth for military activity in the Democratic Republic of the Congo. The ability of Rwandan authorities to delay the planned registration exercise heightened the fears of some refugees, rendering them more vulnerable to military enrolment.

188. Over the next few months, pupils left the camp in small groups. Departures increased drastically in August. According to testimony from fellow refugees and aid workers, those who accepted enlistment left the camp alone, at dusk, usually during study period, and assembled on a nearby hilltop where vehicles would be waiting for them.

189. Refugees as well as aid workers, including human rights and religious organizations, informed the Group that some of the children had been sent for military training at either a military installation nearby in Kibuye or in the eastern part of Rwanda, while others went directly to the Democratic Republic of the Congo for military purposes.

190. As from July, the constant decrease in school attendance was noted by the camp management and became a cause for concern. Indeed, most students who had left the camp had yet to complete their school year, which ended in September. The Group obtained a list containing the names and descriptive information of the 129 secondary school pupils who had left the camp. The Group documented at least 36 primary schoolchildren who did the same. Although difficult to ascertain, it is likely that children who did not attend school would also have exited the camp unnoticed.

191. Few refugees were willing to volunteer information to the Group. Those who did informed it that the Refugee Committee had strongly advised against discussing the recruitment drives with outsiders. In the past, outspoken refugees were compelled to leave the camp for their own security. Indeed, according to direct testimony from refugees as well as aid workers, the mobilization of youth took place with the complicity of the Refugee Committee and representatives of the Ministry of Local Government, which had a supervisory role in the camp. Given the social layout of the camp, the Refugee Committee and the Ministry would have had to know about, and at minimum provided tacit support to, General Nkunda's clandestine recruitment visits.

192. The Group is aware that money was used as an incentive not only among parents and their children, but also within the Refugee Committee. The Prefect of Kibuye informed the Group, as well as other officials, that he was aware of the recruitment issue but that, being new to his post, he would require some time to acquire a more considered appreciation of the situation.

5. Colonel Mutebutsi and his troops pose a latent threat

193. The renegade Colonel Jules Mutebutsi and his 300 troops continue to be harboured by Rwanda, from which they still pose a threat to peace in the eastern part of the Democratic Republic of the Congo. On 24 and 25 August 2004, Colonel Mutebutsi and his men were relocated from their initial cantonment site in the Rwandan military installation of Ntendezi, some 20 km from Cyangugu, the Rwandan town bordering the Democratic Republic of the Congo, to Coko camp, in Gikongoro Province. Although the new site is in a more remote area, it remains a mere 20 km from the Burundian border. This is of concern both to the Group and to aid workers in view of widespread reports of joint military operations along the border between Rwandan and Burundian regular armies, respectively RDF and FAB.

194. The Group visited Coko camp on 25 November 2004 and interviewed Colonel Mutebutsi. The Group observed that he retained full command and control over his

men, including his officers. Within the camp, military discipline can be observed, with Colonel Mutebutsi issuing orders to his men.

195. In the absence of external supervision of the camp, Colonel Mutebutsi and his men enjoy freedom of movement both inside and outside the camp. The camp manager, a government appointee, stated that a tracking procedure was in place to monitor men leaving and entering the camp. However, he could not produce any papers to that effect. Colonel Mutebutsi's freedom of movement is such that he has a car on the camp premises, with Kivu number plate KV9204C. From its assessment mission, the Group readily concluded that Colonel Mutebutsi and his men had the means and ability to move about at their discretion. This is supported by the Group's interviews, in Bujumbura, of three self-identified deserters, who left the camp on 14 September 2004 and turned themselves over to the United Nations Office in Burundi for custody.

196. Interviews with refugees and UNHCR workers indicate that Colonel Mutebutsi's men have visited other camps such as the Nyagatare transit centre in Cyangugu. Because of logistical constraints, these allegations were not independently verified, but the Group recalls that very similar occurrences were documented, verified and included in the Group's first report.

197. The Group remains concerned that Rwanda has not provided the Transitional Government of the Democratic Republic of the Congo with an inventory of the guns it claims to have retrieved from Colonel Mutebutsi and his troops upon their entry into Rwanda. The Group is also concerned that their heavy weapons remain unaccounted for. Although Colonel Mutebutsi and his troops were in civilian attire within the camp, the Group concluded that they should still be considered in a latent state of military readiness and that no humanitarian assistance should be provided by United Nations agencies. These soldiers have yet to verifiably renounce their military status, and their cantonment is not enforced, as evidenced also by other United Nations agency reports. It is incumbent upon Rwanda to do more to neutralize the threat of these former combatants.

198. The Group was informed by Kinshasa as well as Kivu military officials that an arrest warrant for both Colonel Mutebutsi and General Nkunda had been issued in the Democratic Republic of the Congo, but to date the Group is not aware of any official entreaties by the Democratic Republic of the Congo for the extradition of Colonel Mutebutsi.

6. Residual presence of Rwanda

199. The Group is cognizant of the presence of RDF soldiers in North Kivu. According to doctors, hospital staff and soldiers interviewed, approximately 30 Rwandan military personnel were being treated in two hospitals in Goma. As reported by local officials and civilians, some RDF officers own property in North Kivu. Also, according to numerous interviews with villagers, RDF elements had engaged in small-scale attacks on a series of villages along the Rwandan border in the area north of Goma.

200. The Group is aware that Rwanda continues to retain a covert residual presence in the Democratic Republic of the Congo in key areas bordering the Virungu National Park. Furthermore, Rwandan officials have on at least one occasion requested permission from the Government of Rwanda to cross Ugandan territory

for entry into the Democratic Republic of the Congo. This request was officially denied.

7. Psychological warfare

201. Despite these instances of residual troop presence during the Group's second mandate, it has been Rwanda's psychological warfare campaign threatening the Democratic Republic of the Congo with invasion that precipitated another cycle of violence. Following Rwanda's lead, the flexing of military muscle by the ex-ANC troops has negatively affected the fragile army integration process and conflict has escalated between their units and other FARDC contingents sent to the area in December 2004, following mobilization orders issued from Kinshasa.

202. On 23 November 2004, the Group met with a Rwandan government delegation chaired by Ambassador Sezibera, President Paul Kagame's Special Envoy for the Great Lakes, to discuss issues related to the Group's mandate as well as Rwanda's security concerns. Rather than engaging in dialogue, the Government insisted on a written questionnaire. After the meeting, the Government contacted an influential embassy in Kigali to forewarn of possible incursions by RDF into the Democratic Republic of the Congo. The Group learned that RDF had already strengthened its positions along the border with mobile and medical units.

203. In order to ascertain the extent of Rwanda's threat, the Group travelled to the Rwandan border town of Gisenyi. On 25 November, the Group located the Minister of Defence, General Marcel Gatsinzi, in meetings with his top military aides, in Gisenyi, at the Kivu Sun Hotel. The Minister of Internal Security, Christophe Bazivamo, was also present for consultations with provincial prefects. Aides informed the Group that they were discussing security issues and that RDF was strengthening its positions along the border with the Democratic Republic of the Congo. The Group travelled to other towns, including Kibuye, where a substantial increase in military presence was noted as well.

204. On 2 December, RDF trucks reportedly crossed the border into the Democratic Republic of the Congo. Although the Group did not directly witness the border crossing, it was informed of military truck movements by unrelated sources based in Ruhengeri. They observed a military convoy en route to Gisenyi in the early hours of the morning, when road traffic is usually minimal. After receiving the reports, the Group followed up with diplomatic and local sources who confirmed that a small convoy of Rwandan military trucks had crossed the border at Gisenyi.

205. While President Kagame continued to make public speeches either threatening to send troops into the Democratic Republic of the Congo for "surgical strikes" against FDLR or implying that troops may already have crossed the border, such as his address to the Rwandan Senate on 30 November 2004, other Rwandan government officials used similar inflammatory language in sundry media statements.

8. Rwandan threats and the disarmament, demobilization, repatriation, reintegration and resettlement process

206. The destabilizing declarations by Rwanda came weeks after joint operations by FARDC and MONUC were launched in Walungu to proactively sensitize FDLR to its need to comply with the disarmament, demobilization, repatriation, reintegration

and resettlement process or face future military action. The Walungu operation represents a first step in a new direction, allowing FARDC and MONUC to work out modalities in the field and to identify weaknesses in terms of both capability and resolve.

207. The Group remains convinced that FDLR does not present an imminent danger to the security of Rwanda, although it is concerned about regular FDLR cross-border reconnaissance and sensitization missions into both Rwanda and Burundi. Of more immediate concern, the presence of FDLR in the Democratic Republic of the Congo limits the extension of State authority in critical areas and negatively affects discipline within the ranks of the FARDC, as well as army integration.

208. The disarmament, demobilization, repatriation, reintegration and resettlement process is at a crossroads, with voluntary activities at a near-standstill and FARDC insufficiently integrated and resourced to conduct forcible disarmament. The Tripartite Commission and the Joint Verification Mechanism represent appropriate forums for addressing disarmament constraints and finding satisfactory ways for countries in the region to move forward.

209. Rwanda's threats have precipitated military confrontation in North Kivu between troops recently deployed by Kinshasa and rebellious ex-ANC troops. While the Group has received multiple reports from various sources, including MONUC, suggesting that President Kagame's verbal threats had actually been executed in the field, the Group was nearing the end of its field investigations and was unable to independently verify those allegations.

VIII. Cooperation

A. Neighbouring States and regional actors

210. The front-line States, as well as South Africa, play a critical role in regional stability and in the success of the arms embargo. Throughout its investigations, the Group gathered credible information indicating that Rwanda and Uganda had provided State-authorized arms transfers to the Democratic Republic of the Congo and that their troops had been directly involved in supporting dissident forces. The Group also has information on companies based in South Africa that may have violated the arms embargo. However, the Group's efforts to fully and effectively cooperate and exchange information with some of those States have not always been reciprocated. As a result, the Group has not been able to complete its investigations on these alleged violations of the arms embargo.

211. In all of the instances noted above, the Group was required to submit a written questionnaire in lieu of having constructive and proactive dialogue. It is the Group's opinion that face-to-face interviews with officials at the policy level and appropriate technocrats are a more useful means of collecting information relevant to its investigations and mandate. At times, the Group was provided with the policy pertaining to a key issue when it was merely seeking clarification on a more nuanced technical matter, such as a legal loophole that needed to be addressed.

212. Looking ahead, the Group would greatly benefit from receiving relevant information regarding military budgets and installations, as repeatedly requested of the Governments of Rwanda and Uganda. In terms of civil aviation records, the

Government of Rwanda has yet to provide detailed registries of all aircraft, air cargo companies, handling agents and airport daily traffic sheets. Requested customs documentation has also not been provided. The Group will continue to pursue mutually acceptable modalities with a view to hastening the exchange of information with the Governments concerned.

213. Although the Government of Uganda has also adopted the formal approach mentioned above, officials have made themselves available to meet with the Group and have provided timely responses and relevant documents, with the notable exception, however, of information of a military nature. During its second mandate, after repeated requests, the Group received incomplete answers from the Ministry of Defence and the Uganda People's Defence Forces to questions submitted to them during its first mandate. In addition, the Group was barred from visiting Luwero Industries, Uganda's arms manufacturer, based at Nakasongola, and was denied information pertaining to its activities.

214. The Group notes that Ugandan civil authorities were responsive, and is particularly thankful for assistance received from the Ugandan Revenue Authority and Civil Aviation Authority. The Government of Uganda has also made useful recommendations to the Group on measures that might improve the implementation of the arms embargo. One such recommendation is the need for the Security Council to determine the relevance of a travel ban and measures to be taken vis-à-vis representatives of the Ituri armed groups.

215. Representatives of the Government of Rwanda denied the Group the possibility of engaging in any discussions on substance without the prior submission of a formal written questionnaire. They also insisted that the Group explain its methodology, mandate and definition of key concepts in writing as an attachment to the questionnaire. In terms of freedom of movement, access to Colonel Mutebutsi and his men, regrouped in Coko camp, was permitted only on an ad hoc basis and after a lengthy waiting period. As a result of these impediments, the Group's ability to complete its investigations has been considerably undermined.

216. The Group considers South Africa to be an important interlocutor not only because of the key part it plays in the peace process in the Great Lakes region, in particular in the Democratic Republic of the Congo and Burundi, but also in the light of allegations that South Africa-based entities may be operating in violation of the arms embargo. During a collegial meeting chaired by a senior representative of the Department of Foreign Affairs, the Group was requested to submit a formal written questionnaire and was further informed that the Government preferred not to receive information from the Group on unsubstantiated allegations but would rather wait until the development of such cases reached an actionable stage. The Chair also requested that all information and evidence collected by the Group be submitted in writing for dissemination to all relevant government departments. The Group has every interest in working with the Government of South Africa to further investigations and will make any effort necessary to establish modalities that are acceptable to both parties.

217. The Government of South Africa's response to the Group's questionnaire came in two stages, the second and most crucial of which was received by the Group at the end of its field investigations.

218. While respecting the Government's request that the Group interact with a specific focal point for all formal government inquiries, it does not believe that this limits the Group's ability to interact, for instance, with civilian or military officials seconded by the South African Government to serve in MONUC and ONUB and who volunteer information on their own accord. The Group will remain open to all information volunteered to it by third parties.

B. Other States

219. The Group has proactively engaged with other State actors, including those whose contributions towards perfecting the monitoring and implementation of the arms embargo is significant. The Group welcomes the specialized training afforded to relevant MONUC personnel and funded by Belgium as a useful follow-up to one of the recommendations contained in the Group's first report.

220. The Government of the United States has informed the Group that it is committed in principle to providing MONUC and possibly ONUB with specialized training on the collection and inventory of weapons and initiating the collection of baseline data on weapon stocks acquired by MONUC in pursuit of its mandate.

221. The Group welcomes the invaluable information provided by the Governments of Belgium, France, the United Kingdom and the United States during its second mandate and is grateful for the assistance proposed by France, the United Kingdom and the United States on specific information on weapon serial numbers and other relevant data for tracing and analysis, and looks forward to their feedback.

C. International and regional organizations

222. The Group continues to interact with other key external players. During a meeting with Europol, the European police office, the latter expressed its willingness to provide relevant training and expertise to MONUC as well as assistance to the Group on special investigations, depending on the availability of European Union funds. Interpol is not currently focused on cases of relevance to the Group, and the Interpol Weapons and Explosives Tracking System is not suitable, at this stage, as a tool for the Group. The International Criminal Court is conducting work relevant to the Group's mandate, particularly with regard to the collection and documentation of evidence. As such, coordinating modalities for the exchange of information will be useful. Given the importance the European Union attaches to regional stability, particularly through the office of its Special Representative for the Great Lakes Region, the Group values exchange of information and interaction with it. The Group is encouraged by the emergency funding the European Union provided for the construction of a stone wall to protect Virunga National Park from encroachment, as highlighted in the Group's first report.

D. Non-State actors

223. Crucial to the effective implementation and enforcement of the arms embargo is the support and input provided by specialized actors, non-governmental organizations and civil society. Many of those actors have long-term objectives

concerning regional peace, disarmament, small arms proliferation, anti-crime and anti-terrorism activities and natural resource exploitation. The Group would benefit from ongoing submissions and proactive assistance from those actors which have a stake in the process.

224. The Group has been provided with useful information by the All Party Parliamentarian Group, Amnesty International, Human Rights Watch and International Peace Information Service. The All Party Parliamentarian Group provided a written submission to the Committee that proved invaluable to the Group. Civil society in the Democratic Republic of the Congo and elsewhere should be encouraged to provide MONUC and the Group with relevant information for verification as necessary. The MONUC Public Information Office and Radio Okapi are encouraged to continue to play a role in civic education and awareness-raising within the Democratic Republic of the Congo.

IX. Recommendations

225. In the light of the findings and observations detailed above, the Group wishes to present the recommendations set out below.

A. Clarification and extension

226. Given the complexity of the Congolese political landscape and the varying allegiances of the members of the Transitional Government, the Group recommends that the target of the embargo as defined in Security Council resolution 1493 (2003) be revisited with a view to clarifying the terms and exemptions of the embargo. The Group also recommends that the *État-major* be instituted as the sole procuring and authorizing agent on behalf of the Transitional Government and integrated army for military hardware and other forms of military equipment. Furthermore, to enhance the effectiveness of the monitoring mechanism and embargo enforcement, the Security Council should extend the arms embargo to the entire territory of the Democratic Republic of the Congo, with the exception of the *État-major* and MONUC and for supplies of non-lethal material and training for humanitarian or protective use.

B. Monitoring mechanism

1. Group of Experts

227. The monitoring mechanism established to stem the flow of weapons and related military materiel into the eastern part of the Democratic Republic of the Congo needs to capitalize on its findings. As such, the Group recommends further monitoring until the end of the arms embargo on the Democratic Republic of the Congo so that investigations in countries both in the region and further afield can be consolidated and information on violators of the arms embargo can be updated with a view to revising the list as appropriate. The monitoring mechanism would benefit from additional resources and support.

228. In order to further coordinate the activities of MONUC and the Group, as well as the flow of information between them, the Group recommends that a Group

liaison officer be integrated into the MONUC Joint Mission Analysis Cell at MONUC headquarters in Kinshasa for the duration of any future mandate.

2. United Nations Organization Mission in the Democratic Republic of the Congo

229. The frequent rotation of MONUC military observers, staff officers and contingents warrants the continuation of specialized training sessions on monitoring of the arms embargo. While MONUC staff have benefited from training in the area of civil aviation, they could benefit from further training in methods of collecting data on border movements as well as on weapons observed or retrieved in the field. MONUC should be encouraged to standardize procedures for inspections and the collection of data on weapons and to establish baseline data useful for the monitoring mechanism. Europol would welcome European Union funding to initiate such training. The donor community should be encouraged to provide training and to initiate the collection of baseline data on weapon stocks seized or otherwise acquired by MONUC in pursuit of its mandate.

230. Regarding the monitoring of airports and air operations, MONUC should conduct regular ad hoc inspections of aircraft, including relevant documentation at strategic airports. These should include Bunia, Butembo, Beni, Goma, Bukavu, Kindu and Shabunda, as well as smaller but equally strategic airports, including Uvira, Kalima, Walikale, Isiro and Aru. The information obtained should be shared with the Congolese civil aviation authorities, ICAO and the Group for further action.

231. The Group recognizes that MONUC faces constraints in monitoring the arms embargo as a result of its shift in operational priorities following the Bukavu crisis. However, it welcomes the decision to include the arms embargo as one of the Mission's core priorities in the Joint Mission Analysis Cell. The Group notes that MONUC is still limited in terms of marine patrols and other forms of surveillance capability and recommends that the Security Council consider enhancing those assets.

232. The Group is of the opinion that the Ubwari Peninsula, on the Congolese side of Lake Tanganyika, is a conduit for arms smuggling and a hub for illicit military activity. The area should be made accessible for monitoring of the arms embargo and disarmament, demobilization, repatriation, reintegration and resettlement assessments. Such assessments, including overland and maritime monitoring, would benefit from enhanced logistical cooperation between MONUC and ONUB, in particular the use of ONUB marine assets, until such time that MONUC has marine assets of its own.

3. United Nations Operation in Burundi

233. The proliferation of unregulated small arms in Burundi has the potential to destabilize the country, and the region, in the lead-up to elections. In this connection, the Security Council should consider resourcing a small arms component within ONUB or a United Nations agency. As the disarmament programme in Burundi is in its initial stages, the Group also recommends that it be accompanied by the establishment of baseline data and a weapons inventory using information collected by specially trained personnel.

4. Democratic Republic of the Congo

234. To assist in the implementation and enforcement of the arms embargo, the Transition Government should, in consultation with MONUC and the International Committee in Support of the Transition, determine appropriate and realistic modalities and criteria for the integration of the national army and police. Such modalities should include prior notification of MONUC for internal movements of arms and related materiel for use by integrated FARDC units. They should also address the deployment, payment and provisioning of integrated troops, which need to be standardized and regulated in a more transparent manner.

5. Denial of access

235. As denial of access is in contravention of paragraph 19 of Security Council resolution 1493 (2003), the Group calls upon the Commander of the tenth military region, to sensitize those who denied access to MONUC and the Group during the airport operation in Bukavu and to further raise awareness among all FARDC personnel under his command of the need to abide by United Nations resolutions. To prevent denial of access in future, the Group also recommends that the *État-major* in Kinshasa send clear instructions to all FARDC military regions to cooperate with MONUC, particularly when it conducts inspections.

C. Civil aviation

1. Democratic Republic of the Congo

236. Given the large number of illicit aircraft operating to and from the eastern part of the Democratic Republic of the Congo, the Group recommends that an aggressive campaign be launched, in coordination with officials from the Transitional Government, ICAO, MONUC and foreign Governments, to divest the region of aircraft and air cargo companies involved in illegal and abusive practices. Those aircraft using false or expired documentation should be penalized and prevented from carrying out air operations in the eastern part of the Democratic Republic of the Congo. Likewise, aircraft and air cargo owners should be penalized for failure to abide by governmental and ICAO regulations and other possible criminal violations. Foreign Governments should investigate the activities of nationals that operate or are associated with such aircraft. Furthermore, if pilots are found to be flying without the required documentation or on fake or expired documentation, judicial procedures should be initiated and appropriate measures taken.

237. The Group recommends that the civil aviation authorities of the Democratic Republic of the Congo clearly instruct all airport authorities in the country to cooperate with MONUC when it inspects aircraft. The civil aviation authorities should instruct their representatives in airports under their control to remind pilots and airline representatives of the terms of the Chicago Convention of ICAO, in particular paragraph 29, which lists the documents that must be on board aircraft at all times. The Group recommends that the civil aviation authorities verify, at regular intervals, the validity of aircraft and of pilots' documents with a view to stemming the use of false documents. The results of those verifications should be archived in a centralized RVA database, possibly with the assistance of ICAO.

238. The Group further recommends that RVA officials strictly enforce the status of airports, including those that are privately owned and that are not official international entry points into the Democratic Republic of the Congo. Any aircrew using those airports as its point of entry into the Democratic Republic of the Congo, except during emergency procedures, should be considered to have violated Congolese airspace and be prosecuted accordingly.

2. Uganda

239. The Ugandan authorities should immediately regularize the status of civilian aircraft based at or using the military apron at Entebbe Airport. Those aircraft and the companies that own or operate them should follow the normal regulations and procedures established by the Civil Aviation Authority. The latter needs to reassert its role in monitoring and overseeing all internal and international flights of civilian aircraft. Efforts should be made to enable the Entebbe air traffic control tower to liaise more effectively with the Congolese RVA and MONUC air operations in the eastern part of the Democratic Republic of the Congo with a view to enhancing air traffic control.

3. Burundi

240. The Burundi RSA should fully investigate the dual use of the registration 9U-BHR by aircraft of Volga Atlantic and Aigle Aviation, with an emphasis on the possible issuance of fraudulent documentation.

D. Border controls and financial aspects

1. Regional and international

241. The Ituri armed groups benefit from the commercial and logistical networks they have developed in neighbouring States as well as in countries further afield. The Group reiterates the need to limit the cross-border freedom of movement of these armed groups and strongly encourages that measures be taken to deny them access to funds that are used to sustain their military apparatus, in violation of the arms embargo. To this end, the Group recommends that the Security Council consider imposing a travel ban on and freezing the assets of representatives of the Ituri armed groups, in particular their high-ranking leaders. Countries such as Uganda that have been contacted by the representatives of such armed groups or have held meetings with them could assist the Council in maintaining an updated list of such representatives, including their names, functions and other relevant identifiers.

242. The transit trade regime in the region continues to have loopholes that are used by armed groups to sustain themselves. As such, the members of the northern transit corridor should amend the present agreement to allow for the inspection of transit goods that are destined for areas controlled by embargoed armed groups.

243. The Security Council should make a determination on the best way to address the issue of legitimate business operators who, by virtue of conducting business in embargoed regions of the Democratic Republic of the Congo, are sustaining armed groups through the payment of taxes, customs duties, aircraft landing fees or other

levies and enabling them to purchase weapons in contravention of the embargo. The Group can assist in this endeavour as required.

244. Member States should provide information on nationals who are involved in commercial transactions with embargoed groups. Such information could, in particular, support efforts to track funds and business arrangements that are in violation of the arms embargo.

2. Democratic Republic of the Congo

245. Effective customs and immigration administrations play a critical role in border control and can contribute to the strengthening of the arms embargo. In this connection, the Group recommends that, with the assistance of the international community, in particular the World Customs Organization, State authority over customs and immigration be extended to all parts of the Democratic Republic of the Congo, and most importantly in the embargoed areas. The Transitional Government should implement the recommendations made by Crown Agents in its review of customs operations. Further benefits would be drawn from the development of bilateral customs and immigration cooperation mechanisms with Uganda and Rwanda. MONUC and relevant agencies could assist in improving controls and security along the eastern borders to curb illicit cross-border trafficking, including the movement of arms.

3. Uganda

246. The Government of Uganda should increase border enforcement efforts along its border with Ituri. To this end, the Group recommends the establishment of a bilateral border control mechanism between the Democratic Republic of the Congo and Uganda to share information and intelligence on matters pertaining in particular to the arms embargo. Such a mechanism could operate in a similar manner as the bilateral security agreements already signed between the Democratic Republic of the Congo and Uganda.

247. The Group recommends that the Government mobilize sufficient manpower along key border crossings such as Vis-à-vis. In so doing, the police and immigration officials at the Vurra, Lia and Goli border posts should be better equipped to stem irregularities. In addition, the border post at Bunagana should be strengthened to prevent both the resupply of FDLR and foreign troop encroachments. Any weapons brought into Uganda from the Democratic Republic of the Congo should be seized and inventoried and the information pertaining to such incidents reported to MONUC for transmission to the Transitional Government and the Group.

248. Many of the primary beneficiaries of pre-financing and other forms of preferential treatment afforded by Ituri armed groups are Uganda-based businessmen. Uganda should make every effort to investigate and, as appropriate, hold accountable, such individuals or companies if they are found to be in violation of national laws or the arms embargo.

249. The gold export trade should be more strictly regulated to ensure that members of the Ituri armed groups and their direct business partners do not benefit from the proceeds, which may be used to purchase weapons or other military supplies. A review of the gold export trade would be instrumental in determining the origin of

the gold and the measures that are required to stem the illicit export of gold from the Democratic Republic of the Congo via Uganda.

4. Rwanda

250. The Government of Rwanda should be encouraged to cooperate more effectively with the Group on issues relating to border control and enforcement of the arms embargo.

251. Mineral resources imported into Rwanda should be strictly regulated to ensure that members of dissident military factions from the Democratic Republic of the Congo and their respective business partners do not benefit from the proceeds, as they may be used to purchase weapons or other military supplies. In cooperation with the Transitional Government of the Democratic Republic of the Congo, a review of all authorized exporters of mineral resources would be a first step towards determining which operators are involved in violations of the arms embargo.

E. Arms flows and violations

252. In a joint effort, the Transitional Government and the Government of Armenia should expedite investigations on the uniforms illegally flown into Goma by the Armenian-based company Simeron Enterprises. Proper charges should be pressed against the crew, and the outcome of the grounded aircraft should be dealt with through regular legal channels.

253. The operators of the CAGL aircraft EL-WVA should be penalized, not only for operating an illicit aircraft, but also for its role in ferrying militia. The aircraft should remain grounded until it is properly registered and has undergone a technical inspection for airworthiness. Enquiries should also be made into the special dispensations afforded that aircraft by local authorities.

254. There is a need to review and rectify the ambiguous relations between the military regions in the eastern part of the Democratic Republic of the Congo, their links to the *État-major* in Kinshasa and the support provided by their troops to the activities of dissident troops and foreign armed groups in violation of the arms embargo. Accordingly, General Obedi and Colonel Nakabaka should be sanctioned. In addition, the *État-major* should send clear instructions to the Commanders of the eighth and tenth military regions with a view to thwarting cohabitation between FARDC troops and FDLR units in their respective areas of responsibility. Priority should be given to apprehending General Nkunda and requesting the extradition of Colonel Mutebutsi and his dissident forces to the Democratic Republic of the Congo to face charges.

255. The Group remains concerned about the recent proliferation of small arms into Masisi territory and recommends that, in coordination with MONUC and appropriate members of civil society, FARDC and relevant civilian authorities initiate a campaign to collect the weapons that were distributed mainly in October 2004. The responsible parties within the provincial and territorial administrations should be replaced and appropriately sanctioned. Every attempt should be made to account for former local defence forces troops that have been incorporated into FARDC.

256. The recruitment of minors in Rwandan refugee camps violates not only the arms embargo but also international protocols on the rights of the child and refugee law. As such, recruitment must be dealt with by the international community to ensure that the humanitarian nature of the refugee camps is preserved. Security in refugee camps must be enhanced, to include in particular the monitoring of all incoming and outgoing visits. Authorities and the humanitarian community inside the Democratic Republic of the Congo should conduct an investigation into the whereabouts of the missing children.

F. Bilateral, regional and international efforts

257. The repeated threat by Rwanda to conduct incursions in the Democratic Republic of the Congo have had grave repercussions for the security situation in the eastern part of the Democratic Republic of the Congo and have reignited conflict in North Kivu. The Group recommends that all parties adhere to the Tripartite Agreement. The Tripartite Commission and the Joint Verification Mechanism recently signed by the Democratic Republic of the Congo and Rwanda should serve as the appropriate forums for addressing allegations of foreign military interference in the internal affairs of another country.

258. Member States should strive to identify members of the FDLR diaspora based in their respective countries who are contributing financially to FDLR activities with a view to severing such assistance. The Group believes that this would have a positive impact on the disarmament, demobilization, repatriation, reintegration and resettlement process.